

Exhibit I - Deposition of Ofc. James Rothenburg

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

Page 152

1

REPORTER'S CERTIFICATE

2 STATE OF NEVADA)
)
 3 COUNTY OF CLARK) ss
)

4

5 I, Tracy A. Manning, a duly certified court
 reporter licensed in and for the State of Nevada, do
 6 hereby certify:

7 That I reported the taking of the deposition of
 the witness, James Rothenburg, at the time and place
 8 aforesaid;

9 That prior to being examined, the witness was
 by me duly sworn to testify to the truth, the whole
 10 truth, and nothing but the truth;

11 That I thereafter transcribed my shorthand
 notes into typewriting and that the typewritten
 12 transcript of said deposition is a complete, true
 and accurate record of testimony provided by the
 13 witness at said time to the best of my ability.

14 I further certify (1) that I am not a relative,
 employee or independent contractor of counsel of any
 15 of the parties; nor a relative, employee or
 independent contractor of the parties involved in
 16 said action; nor a person financially interested in
 the action; nor do I have any other relationship
 17 with any of the parties or with counsel of any of
 the parties involved in the action that may
 18 reasonably cause my impartiality to be questioned;
 and (2) that transcript review pursuant to
 19 FRCP 30(e) was waived.

20 IN WITNESS WHEREOF, I have hereunto set my hand
 in the County of Clark, State of Nevada, this 28th
 21 day of July 2024.

22

23

24

25

Tracy A Manning
 Tracy A. Manning, CCR #85

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

Page 1

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3

4 LATIA ALEXANDER, individually as heir)
of ISAIAH T. WILLIAMS and in her)
5 capacity as Special Administrator of)
the Estate of ISAIAH T. WILLIAMS,)
6)

7 Plaintiff,) CASE NO.

) 2:24-cv-00074-

8 v.) APG-NJK

9 LAS VEGAS METROPOLITAN POLICE)

10 DEPARTMENT, a political subdivision)

of the State of Nevada; KERRY KUBLA,)

11 in his individual capacity; BRICE)

CLEMENTS, in his individual capacity;)

12 ALEX GONZALES, in his individual)

capacity; RUSSELL BACKMAN, in his)

13 individual capacity; JAMES)

ROTHENBURG, in his individual)

14 capacity; JAMES BERTUCCINI, in his)

individual capacity; DOES I-XX,)

15 inclusive,)

16)

17 Defendants.)

)

18)

19 VIDEOTAPED DEPOSITION OF JAMES ROTHENBURG

20 Taken on Wednesday, July 17, 2024

21 At 10:16 a.m.

22 At 400 South Seventh Street

23 Las Vegas, Nevada

24)

25 Job No. 56850, Firm No. 116F

Reported by: Tracy A. Manning, CCR 785

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

1	APPEARANCES:	1	WEDNESDAY, JULY 17, 2024
2		2	
3	For the Plaintiff:	3	THE VIDEOGRAPHER: Good morning. This
4	MURPHY'S LAW, PC	4	begins the video recorded deposition of James
5	BY: CORRINE MURPHY, ESQ.	5	Rothenburg. Today's date is July 17th, 2024. The
6	2620 Regatta Drive	6	time on the video monitor is approximately
7	Suite 102	7	10:16 a.m. We are located at 400 South Seventh
8	Las Vegas, Nevada 89128	8	Street in Las Vegas, Nevada.
9	cmurphyslawattorney@gmail.com	9	This case is entitled Latia Alexander, et
10	(702) 820-5763	10	al. versus Las Vegas Metropolitan Police Department,
11	For the Defendants:	11	et al. The case number is 2:24-cv-00074-APG-NJK in
12	MARQUIS AURBACH	12	the United States District Court, District of
13	BY: CRAIG R. ANDERSON, ESQ.	13	Nevada.
14	10001 Park Run Drive	14	My name is Dawn Beck, legal videographer.
15	Las Vegas, Nevada 89145	15	The court reporter is Tracy Manning. We represent
16	canderson@maclaw.com	16	Lexitas.
17	(702) 382-0711	17	Would counselors please state your
18	The Videographer: Dawn Beck	18	appearance for the record and whom you represent?
19		19	MS. MURPHY: Good morning. Corrine
20		20	Murphy, Bar No. 10410 on behalf of plaintiff.
21		21	MR. ANDERSON: Craig Anderson on behalf of
22		22	the defendants.
23		23	THE VIDEOGRAPHER: Thank you.
24		24	Would the court reporter please swear in
25		25	the witness.
1	I N D E X	3	
2	WITNESS	PAGE	1 JAMES ROTHENBURG
3	JAMES ROTHENBURG		2 having been duly sworn,
4			3 was examined and testified as follows:
5			4
6	Examination by Ms. Murphy	5	5 EXAMINATION
7			6 BY MS. MURPHY:
8			7 Q. Let the record reflect this is the time
9	E X H I B I T S		8 and the place of the deposition of James Rothenburg
10	NUMBER	PAGE	9 in the matter of Latia Alexander, et al., versus
11	1 Notice of videotaped deposition of	6	10 Las Vegas Metropolitan Police, et al.
12	James Rothenburg, 3 pages		11 Mr. Rothenburg, my name is Corrine Murphy,
13	2 Excerpt of Las Vegas Metropolitan	32	12 and I'm an attorney. And I -- as I just stated, I
14	Police Department, Special Weapons and		13 represent plaintiff Latia Alexander in this case.
15	Tactics, Bates stamped LVMPD 001490 -		14 Could you please state and spell your full
16	LVMPD 001491, 2 pages		15 name for the record?
17	3 Excerpt of CIRT report, 1 page	92	16 A. James Rothenburg, J-a-m-e-s
18	4 Excerpt of CIRT report, Bates stamped	93	17 R-o-t-h-e-n-b-u-r-g.
19	LVMPD 004271, 1 page, marked		18 Q. Do you have a middle name?
20	confidential		19 A. I do. Ernest, E-r-n-e-s-t.
21	5 Excerpt of CIRT report, Bates stamped	96	20 Q. Okay. Have you ever been known by any
22	LVMPD 004405, 1 page, marked		21 other names?
23	confidential		22 A. No.
24			23 Q. Okay. And we have noticed you to be here
25			24 today. Have you -- did you ever have an opportunity
			25 to review the notice of deposition that was served

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

	6		8
1 on you?		1 give your best and most truthful testimony?	
2 A. I have.		2 A. No.	
3 Q. Okay.		3 Q. Okay. Are you -- and I'm going to	
4 And can we attach that? I don't have one		4 follow -- are you under any medications or anything	
5 with me, but can we attach that as Exhibit 1 to		5 that would inhibit your ability to give honest and	
6 today's deposition transcript?		6 reliable testimony today?	
7 THE REPORTER: Yes.		7 A. No.	
8 MS. MURPHY: I'll provide that later.		8 Q. Can you please tell me everything that you	
9 (Exhibit No. 1 was marked at a later time.)		9 did to prepare for today's deposition?	
10 BY MS. MURPHY:		10 A. I reviewed some of the files that was	
11 Q. And that you are -- you understand that we		11 given to me, talked to my legal counsel. We	
12 are here today to discuss the officer-involved		12 reviewed some body-worn camera video from the	
13 shooting of Isaiah Williams that occurred on		13 incident. Briefly reviewed the transcripts from	
14 January 10, 2022?		14 previous interviews I had given.	
15 A. Yes.		15 Q. Okay. And I don't want to know what you	
16 Q. Have you ever given a deposition before?		16 talked about with Mr. Anderson. That's	
17 A. Yes.		17 attorney-client privilege. But I just want -- but	
18 Q. When -- when are the other instances		18 what I am entitled to know and what I do want to	
19 you've given a deposition?		19 know is just a specific rundown of which documents	
20 A. Various court cases throughout my career.		20 you looked at.	
21 Q. In the last five years have you given a		21 So, there was a couple different	
22 deposition?		22 interviews that you provided. Did you look at both	
23 A. Five years, no.		23 the FIT interview and the CIRT interview?	
24 Q. Okay. So when was the last time that you		24 A. Yes.	
25 remember giving a deposition?		25 MS. MURPHY: And that's F-I-T, it's an	
	7		9
1 A. 2015, I believe.		1 acronym, and it's C-I-R-T.	
2 Q. Okay. And what was your involvement in		2 Q. You reviewed both those transcripts?	
3 that case?		3 A. Yes.	
4 A. I was arresting officer.		4 Q. Okay. In reviewing those transcripts, as	
5 Q. And so were you named as a defendant?		5 we sit here today, was there anything that when you	
6 Were you a party in the case or were you simply the		6 reviewed them did not recollect with -- did not	
7 arresting officer?		7 coincide with your memory as you sat -- as when	
8 A. No, just the arresting officer.		8 you -- sorry, strike that. Let me ask it again.	
9 Q. Okay. And do you remember what that case		9 As you reviewed those transcripts recently	
10 name was?		10 of your interviews for CIRT and for FIT, was there	
11 A. I don't recall.		11 anything that you did not remember or you were	
12 Q. So would it be fair to qualify you as a		12 surprised as you read it?	
13 witness in that case?		13 A. No.	
14 A. Yes.		14 Q. So the -- is it fair for me to assume that	
15 Q. Okay. All right. And other than that		15 the transcripts you read were consistent with your	
16 case, in the last -- well, that was almost nine		16 memory as we sit here today?	
17 years ago, are there -- in the last ten years, have		17 A. Yes.	
18 there been any other cases where you were called		18 Q. Other than the body-worn camera, the FIT	
19 providing your deposition?		19 interview, and the CIRT interview, were there any	
20 A. No.		20 other documents that you reviewed in preparation for	
21 Q. Have you testified in the last ten years?		21 today's deposition?	
22 Have you testified in court?		22 A. Yeah. Las Vegas Metropolitan Police	
23 A. Ten years. I do not believe so.		23 Department policy on search warrants.	
24 Q. Okay. Is there any reason today that you		24 Q. And when you say "policy on search	
25 would not be able to understand my questions and		25 warrants," do you mean the policy on search warrants	

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

	10	12
1 or do you mean the policy on, like, CET entry or 2 knock and announce or was it just the policy on 3 search warrants? 4 A. The policy on search warrants, which 5 encompasses some of that information. 6 Q. Okay. Any other documents? 7 A. And then a -- an older copy, because I 8 don't have a current one, of the SWAT section 9 manual, I believe it was from 2019, that outlines 10 search warrant services. 11 Q. Okay. And do you understand that part of 12 our case, part of plaintiff's case in this matter, 13 is that this search warrant was improperly served? 14 A. I'm aware. 15 Q. Okay. What's your position on that? 16 A. I mean, it depends on what's being argued 17 for the service exactly, specifically. 18 Q. Do you think that the manner in which the 19 search warrant was served was in compliance with the 20 laws as it was in 2022? 21 A. Yes. 22 Q. Okay. Did you bring any documents -- 23 sorry. Were there any other documents that you 24 reviewed? 25 A. No.	1 your supervisor, then. 2 A. Yes, that I had a deposition, yeah. 3 Q. Okay. We have taken the deposition of a 4 couple other SWAT officers. Have you discussed 5 their deposition with them at all? 6 A. No. 7 Q. Okay. Do you still work with -- we 8 have -- I've deposed Alex -- Alex Gonzales, and then 9 my co-counsel deposed Officer Bertuccini. Have 10 you -- did you discuss their depositions with them 11 at all? 12 A. No. 13 Q. Okay. Did you bring any of the documents 14 that you reviewed with you today? 15 A. No. 16 Q. Okay. Did you review any of the -- the 17 statements of any of the other police officers in 18 this case? 19 A. No. 20 Q. I'm going to go down -- do you remember 21 answering interrogatories and Requests For 22 Productions? 23 A. Yes. 24 Q. Okay. Did you review those documents at 25 all to prepare for today's deposition?	
	11	13
1 Q. Okay. And like I said, I'm not entitled 2 and I don't want to know what you spoke about with 3 your lawyer, but I am entitled to know, and I do 4 want to know how long you met with Mr. Anderson for. 5 He can't answer for you. 6 A. Hour? 7 Q. An hour? Okay. 8 A. Probably -- no, probably two. 9 Q. Okay. He -- Mr. Anderson, not that he's 10 trying to be evasive or non-- 11 A. No, I know, I know. I've got to answer, 12 yeah. 13 Q. It's -- although this is an informal 14 setting to a certain degree, it's still like -- 15 A. It's still -- yeah. 16 Q. It's like you're up on the witness stand 17 and you've got to answer the questions. 18 All right. Did you discuss -- other than 19 Mr. Anderson or anyone from his office, did you 20 discuss today's deposition with anyone else? 21 A. No. 22 Q. Okay. Does your supervisor know that 23 you're here today? 24 A. Yes. 25 Q. Okay. So you obviously discussed it with	1 A. Yes. 2 Q. Okay. And so, I know it's hard to keep 3 track, but I'm going to ask one more time. You can 4 take a moment to think about it. 5 Were there any other documents that you 6 may have -- that you -- that you reviewed to prepare 7 for today's deposition? 8 A. No. 9 Q. Okay. In having reviewed both the answers 10 to the interrogatories -- your answers to the 11 interrogatories and your answers to the Request For 12 Production, as we sit here today, is there anything 13 that you wanted to change or modify in those 14 answers? 15 A. No. 16 Q. Okay. So, now I'm going to go over some 17 background questions -- 18 A. Okay. 19 Q. -- that kind of were in your 20 interrogatories. But I want to -- I'm creating the 21 record, so I'm going to march over some familiar 22 ground on that, okay? 23 A. Okay. 24 Q. Where are you from? 25 A. I'd call New York home, upstate New York.	

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

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1 Q. How long ago did you move to Nevada?		1 deposed in this court, he was -- he previously was	
2 A. 16 -- 16 and a half years ago.		2 part of the explosives breach team. So he had some	
3 Q. Okay. And you're currently living here in		3 certifications about explosive handling.	
4 Nevada; is that correct?		4 A. Oh, yes. Yeah.	
5 A. Yes.		5 Q. Okay.	
6 Q. And do you have any intention of moving?		6 A. Yeah.	
7 A. No.		7 Q. Do you have any, like, specialized	
8 Q. Okay. Were you -- if you moved here 16		8 certifications like those? Beyond just, like --	
9 years ago, where did you go to high school?		9 like I said, I've seen that you've done a lot of	
10 A. In New York.		10 continuing education --	
11 Q. Okay. And you have -- you have -- you		11 A. Yeah.	
12 have advanced educational -- you got -- sorry,		12 Q. -- but any, like, specific certifications?	
13 strike that.		13 A. Yeah. As far as explosive -- explosive	
14 You have education beyond high school,		14 breach and stuff goes, yes, quite --	
15 correct?		15 Q. Okay.	
16 A. Correct.		16 A. -- quite a few.	
17 Q. Can you please lay out for me your		17 Q. Okay. Is it fair to say that you're	
18 educational background beyond high school?		18 comfortable doing explosive breaches?	
19 A. I have a Bachelor's degree in business		19 A. Yes.	
20 management, and then I have a Master's degree in		20 Q. Okay. Are you a member of any	
21 administrative leadership.		21 professional organizations related to your	
22 Q. And what is administrative leadership?		22 profession?	
23 A. It just covers varying leadership		23 A. (Indiscernible.)	
24 philosophies in administrative setting, government		24 THE REPORTER: Pardon me?	
25 setting.		25 THE WITNESS: Fraternal Order of Police,	
	15		17
1 Q. And where did you obtain that Master's		1 FOP.	
2 from?		2 BY MS. MURPHY:	
3 A. University of Oklahoma.		3 Q. Is that like a union membership or --	
4 Q. Okay. Did you actually attend there or		4 A. Association, yes. More or less.	
5 did you do it remotely?		5 Q. And can you please tell me what is your	
6 A. Remote.		6 current -- current position?	
7 Q. Okay. And when did you obtain your		7 A. Police sergeant.	
8 Master's?		8 Q. Are you still on SWAT?	
9 A. 2017, I believe. August of 2017, I		9 A. No.	
10 believe I finished.		10 Q. Okay. When did you leave SWAT?	
11 Q. Okay. And are you -- do you have any		11 A. I left in May of '23, last year.	
12 other -- other than those two degrees, do you have		12 Q. And why did you leave?	
13 any other type of, like, certifications? And let		13 A. I was promoted to sergeant.	
14 me -- let me clarify that, because I have		14 Q. And what unit are you currently serving	
15 reviewed -- you've taken, like, ten million courses		15 in?	
16 through SWAT and LVMPD. So I don't mean maybe,		16 A. Internal Affairs Bureau.	
17 like, you know, I'm not asking if you're, like,		17 Q. Okay. And prior to your promotion to	
18 certified in first aid. I'm asking if you have any,		18 sergeant and your transfer to Internal Affairs, how	
19 like, specific certifications for anything that		19 long had you been with SWAT?	
20 would allow you to do your job that is beyond, like,		20 A. Previous to that, just under eight years.	
21 a couple-week course. Do you know what -- do you		21 Would have been seven years and eight months.	
22 want me to give you an example?		22 Q. That is a very specific answer.	
23 A. Sure. Give me an example.		23 A. Nine months? Nine months? Yeah. I just	
24 Q. Okay. So, like, some of the -- some of		24 remember it was end of September in 2015. So, yeah.	
25 the other -- another officer that I -- that I		25 May '23.	

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

	18		20
1 Q. And what -- and I know that there's, like, 2 some different team colors and different positions. 3 You know, I'm a layperson. So can you kind of walk 4 me through, like, what your team -- as best as you 5 can to a layperson, what kind of team you were on 6 and kind of what your day-to-day looked like being a 7 member of the SWAT team in 2022.		1 more or less. Handle the day-to-day, out in the 2 street, kind of on-the-job training, more or less. 3 Q. And so -- Field Training Officer, so does 4 that mean that you would be, like, on patrol and 5 then you would bring training police officers with 6 you?	
8 A. There's just -- there's -- there was two 9 teams, red and blue. But the colors have changed a 10 couple times over the years, just depending on the 11 leadership in place. So, typically it's been red 12 team, and those are just associated with the days 13 off. So, the other team is blue. So I'd primarily 14 been on red team the entire time. I think 15 previous -- or after red team, initially it was gold 16 team and then it went back to red.		7 A. Correct. 8 Q. Okay. And then you went to being a patrol 9 officer; is that correct?	
17 Q. So the color classifications have to do 18 with your days on and day off --		10 A. Patrol officer first, then Field Training 11 Officer.	
19 A. Correct.		12 Q. Okay.	
20 Q. Not, like, duties within SWAT.		13 A. Yeah.	
21 A. Correct, yeah.		14 Q. Oh, sorry. All right. How long were you 15 a patrol officer for? And by the way --	
22 Q. Okay. Did you have -- were you -- would 23 it be qualified as you're a SWAT officer or is there 24 any subspecialty within SWAT?		16 A. About six years.	
25 A. Yeah. So, SWAT officer, and then one of		17 Q. I was going to say, you're doing an 18 excellent job giving me very specific answers. But 19 you can also give me rough estimates to the best of 20 your memory. Okay.	
	19		21 So six years. And how long have you been 22 with LVMPD total?
1 the explosive breachers or breachers. Yeah.		23 A. In about three weeks it will be 16 years.	
2 Q. And were you an explosive breacher for the 3 entire seven years and nine months you were on SWAT? 4 Or had you gained that specialty, like, kind of 5 sub-position as you were going through?		24 Two weeks it will be 16 years.	
6 A. Yeah, I gained it after about two years 7 there.		25 Q. Okay. And you were patrol for six years,	
8 Q. Okay. So, would it be fair for me to -- 9 for me to assume that for about five years and nine 10 months you had that kind of subspecialty?			
11 A. Yes.		1 and then how long, approximately, were you a Field 2 Training Officer?	
12 Q. Okay.		3 A. About a year and a half.	
13 A. Yeah.		4 Q. Okay. And from there were you promoted to 5 SWAT?	
14 Q. And on January 10, 2022, the day of the 15 officer-involved shooting, you also had that 16 subspecialty, correct?		6 A. Yes.	
17 A. Correct.		7 Q. And when I say promoted, that's a fair 8 assumption for me to assume, correct? That's a 9 promotion to get on SWAT?	
18 Q. Okay. And prior to being on SWAT, what 19 position did you hold at Las Vegas Metropolitan 20 Police Department?		10 A. It's a testable position, so, yeah.	
21 A. I was a Field Training Officer and then 22 patrol officer.		11 Q. Okay. What did you have to do in order to 12 test to get on to SWAT?	
23 Q. What's a Field Training Officer?		13 A. At the time, it involved shooting test, so 14 shooting qualification test, (indiscernible) test, 15 confined --	
24 A. Field Training Officer basically is you're 25 teaching new officers how to be a police officer,		16 THE REPORTER: Wait. It sounded like pie? 17 BY MS. MURPHY:	
		18 Q. Did you say height test?	
		19 A. Yeah. Height test. Like, going to the 20 top of a tower and looking over kind of thing, yeah.	
		21 Q. I was, like, do you have to be a certain 22 height to be on SWAT?	
		23 A. Repelling, stuff like that. Yeah, 24 regarding that. So there's a height test, which I 25 know they've since removed. They actually did a	

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

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<p>1 balance test, confined space test. There was a 2 physical fitness test, an obstacle course. There 3 was also an assessment center, which was scenario 4 based. And then the final part was a panel 5 interview. Or oral board.</p> <p>6 Q. Did you have to take any, like, written 7 tests?</p> <p>8 A. No.</p> <p>9 Q. Okay. So is it fair to say that it was -- 10 well, you tell me. Is it mostly, like, it's -- 11 based on what you described, it seems like they want 12 to make sure that you have a certain level of 13 physicality, for lack of a better term, and ability 14 to act within the field; is that fair?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. Is it competitive to get on SWAT?</p> <p>17 A. Very.</p> <p>18 Q. Okay. So with that in mind, I would like 19 you to tell me what -- and if it's different today 20 than it was in 2022, I want you to tell me what your 21 understanding was in 2022. If it differs from 22 today, then I'll ask you what it was today -- what 23 it is today. Can you please tell me what knock and 24 announce means to you?</p> <p>25 A. So, knock and announce, the way that I</p>		<p>1 reasonable meant to you -- or means to you? 2 A. I guess reasonable, what's commonly 3 accepted, what everybody would think is commonly 4 accepted. You know, a reasonable time to act on 5 something. If something -- something was occurring. 6 Q. Okay. And so -- and I know that these 7 questions are a little all encompassing. 8 A. No problem. 9 Q. And so I'm kind of trying to drill down a 10 little bit -- 11 A. Okay. 12 Q. -- and I'd like your help with that. 13 So when you say reasonable amount of time, 14 were you ever given, like, a minimum amount of time 15 that you had to wait? Were you ever -- 16 A. No. 17 Q. Okay. And so, is it fair for me to 18 assume -- was there any -- did you ever get any 19 training on, like, hey, depending on what you're 20 going after or who you're going after, the 21 reasonable scope of time may be different? 22 A. Yes. 23 Q. Okay. And so can you kind of walk me 24 through what your understanding of that was? 25 A. I mean, it would depend -- again, it's --</p>	
	23		25
<p>1 interpret it, is knocking, physically knocking. 2 Whether that be -- well, knocking, you know, using a 3 PA system, you know, alerting somebody of your 4 presence, right? So knocking and then announcing -- 5 also announcing your presence.</p> <p>6 Q. Okay.</p> <p>7 A. So, hey, we're here. It's the police. 8 That type of thing.</p> <p>9 Q. And as we sit here today, do you have any 10 understanding of any parameters for how often or how 11 long you have to announce your presence?</p> <p>12 A. Says a reasonable time, but that's 13 debatable what that time frame is, I believe. Given 14 the circumstance.</p> <p>15 Q. Okay. And I just want to make sure. 16 Because we're a couple years from the incident. If 17 you say reasonable time, is that your same 18 understanding of -- in 2022?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Did you ever have any specific 21 training through either LVMPD or SWAT that there -- 22 that there had to be certain timelines that were 23 met, or was it just a reasonable amount of time?</p> <p>24 A. Just reasonable.</p> <p>25 Q. And can you please explain to me what</p>		<p>1 I think it's all scenario dependent, scenario based, 2 given what it is. Is -- you know, is there a, you 3 know -- what is the threat or what is happening, you 4 know? Is there -- do we need to move faster or do 5 we need to move slower based off the circumstance. 6 Q. Okay. And I'm going to walk you through 7 the entire incident. We're going to watch the 8 video, too. But I know that you have reviewed all 9 these different documents and the video in order to 10 prepare for today's deposition. 11 Having reviewed all those different pieces 12 of evidence, do you think that there was a 13 reasonable amount of time between the first knock 14 and when the door was breached in this case? 15 A. Yes. 16 Q. Okay. And was the amount of time 17 consistent with the training that you had been given 18 through LVMPD and SWAT? 19 A. Yes. 20 Q. And I just want to confirm one more time. 21 To your knowledge, you were never provided any 22 training that there had -- there was a minimum 23 amount of time that you had to wait; is that 24 correct? 25 A. That's correct.</p>	

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>1 Q. Okay. And you explained to me kind of 2 what knock and announce means to you. But can you 3 tell me, from your understanding as a police 4 officer, what's the purpose of knock and announce?</p> <p>5 MR. ANDERSON: Objection, form. 6 Go ahead, sir. Just ignore me when I 7 object. I'm here for the record. 8 THE WITNESS: Got you -- 9 MR. ANDERSON: -- to answer questions. 10 BY MS. MURPHY: 11 Q. Yeah, sorry. Just to let you know, 12 there's no judge here. I'm sure -- 13 A. Right, right. 14 Q. Yeah. You've been in court. And 15 normally, when an attorney will object, a judge will 16 comment on it right away. We don't have a judge 17 here. 18 So what happens is, Mr. Anderson says his 19 objection for the record. Later, if necessary, we 20 can fight over it with a judge. 21 A. Okay. 22 Q. But he's just going to state his objection 23 and then you answer. If he wants you not to answer, 24 he'll tell you. So just assume he's saying his 25 objection, and then you can go ahead and answer the</p>	<p>26</p> <p>1 Q. In performing your job as a police 2 officer, do you agree with me that you have a duty 3 to conduct yourself such that you do not violate the 4 civil or constitutional rights of members of the 5 public?</p> <p>6 A. Yes. 7 Q. Okay. Do you also agree that if you see 8 other officers violating the civil or constitutional 9 rights of the members of the public, you have a duty 10 to intervene and stop that officer?</p> <p>11 A. Yes. 12 Q. And can you tell me, as a -- kind of as a 13 contrast, what is a no-knock warrant?</p> <p>14 A. So, a no-knock is not giving the person or 15 subjects any notice that it's the police whatsoever. 16 Q. And why would some warrants be no-knock 17 and some be knock and announce? 18 A. It would depend on the severity of the 19 crime, what the investigation is for. I mean, 20 there's numerous factors. 21 Q. Okay. In your experience, are property 22 only search warrants ever no-knock?</p> <p>23 A. No. 24 Q. Okay. So would it be fair -- and I know 25 that I'm kind of asking you some broad questions,</p>
<p>27</p> <p>1 question. 2 A. Okay. 3 Q. Okay. And sorry, just to state that one 4 more time, what is your understanding of the purpose 5 of knock and announce? 6 A. To notify somebody of our presence. 7 Q. Does a citizen have a right to know that a 8 police officer is trying to gain entry? 9 A. In a knock and announce, yes. 10 Q. Okay. Does a citizen have a right to open 11 a door or to allow a police officer entry -- entry 12 before the property is destroyed? 13 A. Say that again, I'm sorry. 14 Q. Let me rephrase that. 15 A. Yeah. 16 Q. Does a citizen have a right to allow entry 17 before property is destroyed? And by property, I 18 mean -- I don't mean, like, evidence that the police 19 officers are trying to -- sorry, you're saying no? 20 A. Correct, no. Yeah. 21 Q. Okay. But you do understand that part of 22 a person's constitutional and civil rights is to 23 have clear notice of a police officer's intent to 24 enter, correct? 25 A. Correct.</p>	<p>29</p> <p>1 and so I'm going to try to drill on it a little bit 2 more. 3 So no-knock would only be for, like, an 4 arrest warrant, correct? 5 A. I wouldn't say just that. I mean, it 6 could be -- it could be several things. 7 Q. Okay. 8 A. Yeah. 9 Q. But it wouldn't be a warrant that was for 10 property search and seizure only, correct? 11 A. Not likely, no. 12 Q. And we're going to lay the groundwork for 13 this. I know you've talked about it in part of the 14 CIRT and FIT interview. But what is a CET entry? 15 And CET is an acronym, it's C-E-T. 16 A. What is a CET entry? 17 Q. Correct. 18 A. Controlled Entry Tactic. 19 Q. Oh, is it -- I don't -- I always thought 20 it was pronounced -- I just thought it was called 21 CET, like -- 22 A. No, CET is -- 23 Q. My bad. 24 A. Yeah. I was, like, CET? I was, like, 25 uh-oh. I don't know that one.</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

	30		32
1	Q. This is a test.	1	A. Yeah. So Controlled Entry is -- we're
2	A. Controlled Entry Tactic.	2	going to make entry into the premise beforehand. We
3	Q. Okay. Can you please tell me what is a --	3	know we're going to. And then a Surround and
4	what is a Controlled Entry Tactic?	4	Callout would be, again, surrounding whatever it is,
5	A. It's basically what it means. I mean,	5	the structure, and calling the occupants out before
6	we're making a controlled entry into a premise.	6	making an entry.
7	Q. Okay.	7	Q. Okay. And to confirm in this case, with
8	A. Whether that be a business, house,	8	the service of the warrant on this apartment, this
9	apartment.	9	was a CET entry, correct?
10	Q. And so what -- sorry. What is a	10	A. Correct.
11	controlled entry? How is that different than just	11	Q. Okay. And so I'm going to -- I'm going to
12	entering as a police officer, like, just walk	12	hand -- when we do exhibits, what happens is, is I
13	through the door?	13	give it first to the court reporter. She puts a
14	A. Well, it's different than walking through	14	little sticker on it to mark what exhibit number it
15	the door. We kind of have an idea of where we're	15	is, and then she'll hand it to you.
16	going and what we're doing. There's already been a	16	And please make sure you don't leave today
17	plan put in place of where you're going to go and	17	and take any of the exhibits with you.
18	what you're going to do.	18	A. Okay.
19	Q. Okay.	19	(Exhibit No. 2 was marked.)
20	A. So that's why it's controlled. It's not	20	BY MS. MURPHY:
21	just we're walking in or just running in and	21	Q. So --
22	figuring it out as we go.	22	THE REPORTER: Wait, wait.
23	Q. Can you use a CET entry on a knock and	23	MS. MURPHY: You can't do those at the
24	announce -- on a knock and announce warrant?	24	same time?
25	A. Yes.	25	Q. So, James, what I've just handed you is --
	31		33
1	Q. Okay. Is there no conflict between knock	1	we're going to mark as Exhibit 2 to today's
2	and announce and a CET entry?	2	deposition transcript, and this is the Las Vegas
3	A. No conflict between a knock and announce	3	Metropolitan Police Department, Special Weapons and
4	and a CET?	4	Tactics. Mine says that this is kind of the
5	Q. Yes.	5	internal policy on it.
6	A. No.	6	A. Uh-huh.
7	Q. Okay. And is part of CET -- you know, in	7	Q. And the copy that I've given you, I put a
8	this case, right, the windows were broken open,	8	tiny little mark, a highlighter mark, because I want
9	there were devices, the explosive -- what are they	9	to read to you part of the description of controlled
10	called? The distracts --	10	entry, and I want you to be able to follow along
11	A. Distracts.	11	with me.
12	Q. -- were thrown in.	12	And for the record, it is Bates LVMPD
13	A. Yeah.	13	001490. And just so that you know, James, there --
14	Q. And so is that part of a CET entry?	14	on every -- almost every exhibit that I hand you,
15	A. Yes.	15	there will be an alpha numeric number down in the
16	Q. What's the purpose of the distracts and	16	right-hand corner.
17	the devices?	17	A. Okay.
18	A. To create distraction.	18	Q. Those are the numbers your attorney has
19	Q. To surprise; is that correct?	19	put on every document that we received so that we
20	A. Yeah, surprise.	20	have kind of our own pagination system and we can
21	Q. Give me one second. And so perhaps it	21	keep track of all the documents.
22	will help me have you answer the questions a little	22	A. Okay.
23	bit more in a flowing fashion, can you please tell	23	Q. So, under Controlled Entry Tactic, it
24	me the difference between a Control Entry Tactic and	24	reads, "This tactic can be dynamic in nature, and is
25	a Surround and Callout?	25	a viable and time-proven option. LVMPD should use a

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>1 CET to execute search warrants in those cases to 2 lessen the risks and to enhance officer, citizen, 3 and suspect safety. The goal of a CET is not to 4 surround and call the subject out to SWAT officers. 5 This tactic is meant to surprise and overwhelm the 6 suspects."</p> <p>7 Now, as we sit here today, is the conc-- 8 I'm going to ask you your opinion. Is the concept 9 of surprising and overwhelming suspects, does that 10 conflict with the purpose of no-knock -- or sorry, 11 the purpose of knock and announce, which is to allow 12 people the opportunity to understand and evaluate 13 that it's a police officer trying to gain entry?</p> <p>14 A. You're going to have to give that to me 15 one more time.</p> <p>16 Q. No problem, no problem. So -- and I'll 17 just read the last line one more time, and then I'll 18 ask the question again.</p> <p>19 A. Yeah.</p> <p>20 Q. "This tactic is meant to surprise and 21 overwhelm the subjects." In your opinion, is 22 surprising and overwhelming a suspect at odds with 23 the concept of the knock and announce rule that a 24 citizen is entitled to know and understand that it 25 is a police officer trying to gain entry?</p>	<p>34</p> <p>1 understood it was police officers coming through 2 that unit?</p> <p>3 A. I would assume based off of the 4 announcements given.</p> <p>5 Q. You think that six seconds of 6 announcements is sufficient to give a sleeping 7 person inside an apartment notice and the time to 8 understand that police officers are coming through 9 the door?</p> <p>10 A. I believe so, yes.</p> <p>11 Q. Okay. And you think that especially -- 12 that six seconds, then it is also punctuated with a 13 distract device and what they call it, the nine 14 banger going off, you think that that's also 15 sufficient time for somebody to understand that?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. You don't think that perhaps 18 Mr. Williams was surprised and couldn't have enough 19 time to understand who was coming through the door?</p> <p>20 MR. ANDERSON: Objection, form.</p> <p>21 Go ahead.</p> <p>22 THE WITNESS: I mean, I believe he was 23 surprised, yes.</p> <p>24 BY MS. MURPHY:</p> <p>25 Q. As we sit here today, do you think it was</p>
<p>35</p> <p>1 A. For the surprise and overwhelming, no.</p> <p>2 Q. Why not?</p> <p>3 A. Because we just need to alert them that 4 it's the police. And, yes, they'll be surprised.</p> <p>5 But if we're there to serve a search warrant, we're 6 going to overwhelm that premise because of the 7 reasons listed above. Which, you know, lessen the 8 risk, enhance officer and citizen safety, also 9 safely take the suspect into custody as well. So 10 that way there's not time for them to, you know, arm 11 themselves, take up a better defensive position, or 12 even, you know, flee the area.</p> <p>13 Q. In this case, do you think the way that 14 this warrant was served lessened the risks and 15 enhanced officer safety?</p> <p>16 A. Yes.</p> <p>17 Q. How did it enhance officer safety?</p> <p>18 A. So, for us, I believe that it enhanced it 19 because we were able to quickly get into the 20 apartment and to address the suspect in this case 21 who was shooting at officers. And then also 22 shooting through the rest of the apartment, which 23 was a multi-unit apartment building. So...</p> <p>24 Q. As we sit here today, do you have any 25 evidence or facts that would indicate Mr. Williams</p>	<p>37</p> <p>1 Mr. Williams' intention to shoot at police officers?</p> <p>2 MR. ANDERSON: Objection, form.</p> <p>3 THE WITNESS: I'm unsure.</p> <p>4 BY MS. MURPHY:</p> <p>5 Q. Okay. As we sit here today, can you do a 6 CET entry on a property only search warrant?</p> <p>7 A. I believe so, given the -- you know, 8 the -- again, it's circumstantial. Is it -- is it 9 preferred? No. But if it's the only way, based off 10 of, you know, all the other information that's being 11 looked at, then, yes.</p> <p>12 Q. Okay. Were you aware that part of the 13 internal investigation concluded that the policy 14 should be changed, and that CET entries should not 15 be used on property only search warrants?</p> <p>16 A. Are you talking a policy review?</p> <p>17 Q. Yes.</p> <p>18 A. Prior to this or --</p> <p>19 Q. Sorry --</p> <p>20 A. -- after this?</p> <p>21 Q. Following this, because of this incident.</p> <p>22 A. Okay. So what was the question again 23 exactly?</p> <p>24 Q. No problem. I'll ask it again. 25 Were you aware that following the</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>1 investigation regarding this incident, the 2 officer-involved shooting on January 10th, 2022 with 3 Mr. Williams, were you aware that a recommendation 4 was made for a policy change that CET entries no 5 longer be used for property only search warrants? 6 A. I believe that was a finding that they 7 concluded, yes. 8 Q. Okay. As we sit here today, do you have 9 any knowledge or awareness of whether or not that 10 policy was adopted by LVMPD? 11 A. I believe it has been. 12 Q. Okay. 13 A. Yes. 14 Q. And, like I said, we'll get into the -- 15 the actual entry itself and we'll go through all of 16 that. 17 A. Okay. 18 Q. But as we sit here today, do you believe 19 that the search warrant could have been served as a 20 Surround and Callout rather than a CET entry? 21 A. No. 22 Q. But as we sit here today, based on the 23 updated policy of LVMPD, this search warrant would 24 have to be served as a Surround and Callout, 25 correct?</p>	<p style="text-align: right;">38</p> <p>1 Q. And is that normally how you find out 2 about warrants? 3 A. Yeah, that's our primary means to 4 communicate with the team. 5 Q. Okay. And I -- I know it was a couple 6 years ago, but to the best of your memory, can you 7 tell me what was in the text that you received? 8 A. It's kind of a standard text. It's just 9 the other -- the other team that's working, they'll 10 ask for additional officers to come in to 11 supplement -- supplement their team for service of a 12 search warrant. 13 Q. And so if I understand correctly, James, 14 you actually were not -- you were just brought in 15 kind of as extra because they were short to serve 16 this warrant, correct? 17 A. Correct, yeah. 18 Q. And you said it's kind of like the 19 standard text. And I'm sorry, I don't -- if you 20 could kind of walk me through, like, what does the 21 text that you -- like, what's the standard text look 22 like? You don't have -- if you don't remember this 23 one specifically, it's fine, but if you can just 24 kind of tell me, this is usually what the text says. 25 A. It will usually say, blue team needs five</p>
<p>1 A. I -- unless there's an exception to that 2 policy, then, yes. 3 Q. Okay. And I'm sorry, I didn't tell you 4 before, if you want to take a break at any time, no 5 matter what for. If you need to take a phone call, 6 go to the restroom, whatever, you just tell me and 7 we'll take a break immediately. 8 A. Okay. 9 Q. Okay. All right. Now we're going to get 10 into -- and I actually offered -- if you want, we 11 can take a short break now, because now I'm going to 12 get into the actual, like, mechanics. And I'd like 13 to flow through that as kind of -- without taking a 14 break. So if you want, we can take a five- or 15 ten-minute break now. 16 A. I'm good. 17 Q. Okay. 18 A. Let's do it. 19 Q. Great. We'll keep going. 20 So, can you please tell me when you first 21 became aware of the search warrant in this case? 22 A. I believe it was the night prior, or less 23 than 12 hours prior to. Yeah. 24 Q. Okay. And how did you become aware? 25 A. Through texts, text message.</p>	<p style="text-align: right;">39</p> <p>1 or six bodies for a 0500 search warrant briefing. 2 It's going to be at Santa Fe Station. That's it. 3 Q. Okay. 4 A. Typically. 5 Q. And do you have the -- do you volunteer 6 for this or is it, like, you're up next to do this? 7 A. That's a little bit of both, yeah. 8 There's a -- there's a running list. 9 Q. Okay. 10 A. So -- and then you say, hey, yeah, I'm -- 11 based off what you have because it's a -- it's a day 12 off. So, if you have nothing going on, then you can 13 say, yeah, I'm available. And then depending on 14 where you fall on the list, if you make it, you make 15 it; if you don't, you don't. 16 Q. Okay. I mean, I have to tell you that I 17 personally -- you can tell me if this is different. 18 I -- and I don't know -- and I'm kind of just trying 19 to figure out how it works and, you know -- so 20 you'll have to excuse me if some of my questions are 21 a little bit clumsy. 22 But, like, I -- I'm -- a 4:00 a.m. warrant 23 service seems kind of intense. Was that normal for 24 you guys or -- do you kind of get what I'm getting 25 at?</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

	42		44
1 A. Yeah. 2 Q. Okay. 3 A. It's normal. 4 Q. Okay. 5 A. Yeah. 6 Q. So that wouldn't be, like, I'm not doing a 7 4:00 a.m. search warrant, because this -- it was not 8 that unusual; is that fair to say? 9 A. Correct. Yeah. Yeah. 10 Q. Okay. And you were not part of the recon 11 team for this warrant -- 12 A. No. 13 Q. -- correct? 14 Okay. Have you -- you've done recon for 15 warrants before, though, correct? 16 A. Yes. 17 Q. So I understand that you weren't part of 18 the recon team for this warrant, but you -- can you 19 kind of walk me through when you are part of the 20 recon team, kind of, what does that look like? What 21 do you do? 22 A. So, you'll typically receive the search 23 warrant and then investigative material, basically 24 pretty much everything that the detectives have 25 compiled for the case. Well, depending on what they		1 associated factors that -- that we look for. You 2 know, is there fortifications on the house? Are 3 there cameras? Are there dogs? You know, are there 4 children present, visible? You know, window 5 coverings. There's -- there's a laundry list of 6 things. 7 Also, we're looking at kind of the 8 surrounding area, too. The houses, you know, next 9 to those, the target location, as well. Because 10 we're also going to probably send out containment 11 positions. So making sure they have good avenues to 12 kind of get where they need to go. You know, unlock 13 gates or a neighbor has a large dog or something 14 like that. Anything that would take a few minutes 15 for them to get back there. 16 And then we'll take all that information, 17 we'll kind of come up with a game plan of what we 18 think. And again, I'm using the house in this 19 situation, but it could be an apartment. And then 20 kind of present a plan to the Assistant Team Leader 21 or the team leader, who they've kind of already 22 looked at this information as well. And then kind 23 of formulate the plan of what we're going to do and 24 how we're going to serve it. 25 Q. Okay. And so in this -- and so about --	
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1 send over. Sometimes you have to ask for more. 2 Some are very thorough, send everything. Some only 3 send the required stuff. 4 But you'll review all that. You'll review 5 the search warrant, make sure, you know, it meets 6 all the, you know, normal stuff that needs to be in 7 a search warrant. So, review that. 8 Then you'll find where the location is at, 9 where you're going to go. So determine that. From 10 there, we'll determine a rally point, more or less, 11 where, you know, it's less than a five-minute drive 12 to the target, per se. So that way -- like a 13 staging spot so everybody can meet there and stage. 14 And then from there, usually just two 15 officers, sometimes it's three, sometimes it's four, 16 go out and actually do the recon. Which if it's in 17 a house, they'll pull it up on Google and kind of -- 18 layout of the area, see what it looks like, you 19 know. See what's around there. And then go 20 actually out, confirm the information that's listed 21 in the premise, or the search warrant, that it 22 matches, you know, what we're seeing with -- with 23 eyes on it. 24 You know, then obviously once we get 25 there, too, we're looking at all the -- all the	1 if there is an average, you tell me, because I don't 2 know. But, like, what is the -- is there, like, an 3 average time that you would spend on the recon? Do 4 you know what I mean by that question? 5 A. Yeah. 6 Q. Like -- like, oh, usually we'll spend, 7 like, one to two hours or half an hour, or is there 8 kind of an average that you're comfortable with 9 based on your experience and your service of search 10 warrants? 11 A. Is there a time? I'm not -- it's hard to 12 say. I mean, depends on kind of -- we're calling 13 officers available from all over the city, right? 14 So, depending on what side of town you've got to go 15 to. We -- we, I think, would average about three 16 hours, I believe, prior to the service for the 17 recon. Which doesn't mean it has to be done then. 18 It could be done a couple days before, it could be 19 done the night before. I mean, yeah, we could look 20 at it kind of whenever. And then plan when we're 21 going to -- when they're going to conduct the 22 service. 23 Q. Following this January 10, 2022 incident, 24 did you have any opportunity to kind of further 25 review the recon, based on what was actually		

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>1 physically presented -- physically occurring when 2 you came -- came into the apartment? And if I've 3 asked that question awkwardly, tell me to rephrase 4 it.</p> <p>5 A. Yeah.</p> <p>6 Q. Sure. So, you -- so -- actually let me 7 ask it differently.</p> <p>8 During the -- there was a briefing at 9 Sam's Town, correct?</p> <p>10 A. Right.</p> <p>11 Q. Right.</p> <p>12 A. That's -- yeah, I was just thinking -- I 13 was, like, okay. Kind of left that part out, but I 14 could explain that part.</p> <p>15 Q. And I'll have you get that -- to that in 16 just a second, yeah.</p> <p>17 So the briefing at Sam's Town, you get 18 kind of delivered what the recon team has found, 19 right?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. So having actually gone through 22 this incident, been part of the officer-involved 23 shooting, been briefed at Sam's Town, were there 24 things that you found out about the recon that had 25 been conducted that you later found out to be</p>	<p>46</p> <p>1 fortification on the door?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Do you understand that the recon 4 failed to rule out that there were any children 5 present in the unit?</p> <p>6 A. I believe we determined there was no 7 children present.</p> <p>8 Q. Correct. But having looked back on it 9 now, do you understand that part of the 10 investigation found they hadn't ruled out that there 11 were children, elderly, compromised people there at 12 all? They really didn't know who was associated 13 with the apartment. Do you understand that as we 14 sit here today?</p> <p>15 A. I mean, based off of the recon, I believe 16 that there was no indication that those people were 17 there. So I would say it was ruled out at the time.</p> <p>18 Q. Okay. And then there was also an issue 19 with window coverings when -- specifically for your 20 position, correct?</p> <p>21 A. Correct, yeah.</p> <p>22 Q. And that wasn't accurately relayed to you 23 before the actual service of the search warrant, 24 correct?</p> <p>25 A. That would have been -- that was very</p>
<p>1 inaccurate or poorly done?</p> <p>2 A. I'm trying to think. As far as the recon 3 goes, I would say no. I mean, I felt we got a good 4 briefing. I mean, a standard search warrant service 5 briefing.</p> <p>6 Q. Okay. But to --</p> <p>7 A. There's always -- I'm sorry.</p> <p>8 Q. No, no, no. You finish.</p> <p>9 A. There -- there's always unknown or 10 variables that -- that happen.</p> <p>11 Q. Okay.</p> <p>12 A. That can't be planned for or that 13 aren't -- that are not caught on a recon that you 14 kind of got to deal with on the fly. So...</p> <p>15 Q. In this case, you listed off four 16 different things that you would want recon to look 17 for: Window coverings, dogs, children, and 18 fortification.</p> <p>19 A. Cameras.</p> <p>20 Q. Sorry, cameras. Okay.</p> <p>21 A. Elderly.</p> <p>22 Q. Right. And so in this case, looking back 23 on it from your point of view today, knowing 24 everything that you know now, do you understand that 25 the recon failed to assess that there was a</p>	<p>47</p> <p>1 clear that would have been something we would have 2 been told, I believe.</p> <p>3 Q. Okay, okay. If you had done the recon 4 on -- do you have -- you do have knowledge as we sit 5 here today about the recon that was done, correct?</p> <p>6 A. Yes.</p> <p>7 Q. As we sit here today, would you have done 8 the recon the same way or would you have done it 9 differently?</p> <p>10 MR. ANDERSON: Objection, form.</p> <p>11 THE WITNESS: I would have -- I probably 12 would have done it the same way. Based off of 13 everything that I know, it was done within -- within 14 standard. You know, sometimes they're -- they're 15 very difficult, especially in apartment complexes. 16 They're extremely difficult.</p> <p>17 BY MS. MURPHY:</p> <p>18 Q. What if I were to represent to you that 19 LVMPD's internal investigation found that the recon 20 was not done within standard?</p> <p>21 A. I'm sorry, if you presented that to me?</p> <p>22 Q. Yeah. What if I represent -- are you 23 surprised if I represent to you that the internal 24 investigation found that the recon was not done 25 consistent with LVMPD standards?</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

	50		52
1 A. Which investigation --		1 And these recommendations were based off	
2 Q. Sorry --		2 of a couple different factors. Mainly department	
3 A. -- the CIRT investigation?		3 policy, right, SOPs, operating procedures. And then	
4 Q. Yes.		4 the SMEs, Subject Matter Experts, which I disagree	
5 A. Would it surprise me?		5 with some of the ones that they -- the department	
6 Q. Yeah.		6 had used or brought in to make those	
7 A. No.		7 recommendations.	
8 Q. Why not?		8 Q. Do you feel that they unfairly assessed	
9 A. I don't know how I would answer that. Can		9 your guys' actions as the officers with their actual	
10 I --		10 feet on the ground?	
11 Q. I want you to speak -- yeah, you answer it		11 A. I wouldn't say unfairly. I would say	
12 how you want to tell me.		12 incorrectly.	
13 A. Well, I -- I believe -- I'm trying to		13 Q. Okay.	
14 think how I would -- how I would phrase this is, how		14 A. And then I'll just add to that -- let me	
15 did, one, CIRT come to that conclusion? What did		15 add to that.	
16 they use to base their conclusion -- what did they		16 Just because I -- you know, I said	
17 use, right? The information. And who did they		17 incorrectly. But, the reason why is, this -- this	
18 obtain that information from? Because there's		18 type of job requires a high level of skill, a high	
19 varying -- varying sorts of opinion.		19 level of training, and it's consistent training. So	
20 I mean, you can ask anybody in the		20 when you leave that environment, even for a short	
21 tactical SWAT world, search warrant world, and there		21 period of time, things change very quickly. So, if	
22 are 1,000 ways to do everything. So for them to		22 you're not involved in that, let's say, for a period	
23 come up with that conclusion?		23 of a year.	
24 Actually, I believe it's more of a		24 My situation, I left last year. I come	
25 recommendation than it -- than an actual conclusion,		25 back, there would be quite a bit of things for me to	
	51		53
1 which is something they could certainly recommend,		1 catch up on, where I feel I wouldn't be a subject or	
2 right? I mean, you could find -- you could find		2 expert any more because the tactics change, the	
3 fault in almost anything. But I would question how		3 situations change, the rules change. There's a lot	
4 they came to that determination.		4 of varying things to make, you know, an opinion and	
5 Q. Okay.		5 conclusion of kind of what they -- what was	
6 A. So...		6 ultimately founded, I guess.	
7 Q. And you tell me if I'm right or wrong. As		7 Q. Okay. And this is my understanding of	
8 I'm kind of reading you and hearing your answer, are		8 what you just said to me, and you tell me if I'm	
9 you aware of some of the recommendations or		9 right or wrong.	
10 conclusions that CIRT came to?		10 Do you think that some of the SMEs that	
11 A. I am.		11 they brought in were a little out of touch with how	
12 Q. Do you think that they're unfair or		12 things needed to be done on the day that you served	
13 biased?		13 that warrant?	
14 MR. ANDERSON: Objection, form.		14 A. Yes.	
15 Go ahead.		15 Q. Okay. And I'm sorry, I should have asked	
16 THE WITNESS: I think they could have been		16 this before.	
17 done better.		17 In your career in SWAT, how many warrants	
18 BY MS. MURPHY:		18 do you think you've served?	
19 Q. And what does that -- what does that mean		19 A. Probably well over 1,000.	
20 to you? If you could explain to me what you mean by		20 Q. And how many do you think were -- if you	
21 that.		21 can just give me a rough estimate, how many of those	
22 A. Well, obviously, being, you know, an		22 were the -- were the CET entry?	
23 involved officer, I had to go through that entire		23 A. 60 percent.	
24 process, right? Which is fairly lengthy and it's --		24 Q. So this type of CET entry was something	
25 it's extremely detailed and in depth.		25 that you were very comfort -- and you tell me if	

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

	54		56
<p>1 I'm right or wrong. This is something that you were 2 very well versed in and very comfortable doing, 3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. As much as you're comfortable doing your 6 job, which is uncomfortable.</p> <p>7 A. Yes, yeah.</p> <p>8 Q. All right. I've kind of asked you some 9 basic questions, and I said I was going to talk 10 about the actual thing that happened. Now I'm going 11 to get to the actual thing that happened.</p> <p>12 A. Okay.</p> <p>13 Q. So you got -- you got the -- you received 14 notification about the warrant, you weren't on the 15 recon team, and so then you show up to Sam's Town, 16 correct?</p> <p>17 A. Uh-huh.</p> <p>18 Q. Can you kind of walk me through that?</p> <p>19 A. So, show up -- showed up to Sam's Town. 20 Kind of normal. Get there, you know, 15 or so 21 minutes before the briefing, the briefing time. 22 Which is typically a hard time.</p> <p>23 The recon officers will have, you know, 24 the information just kind of written out on a couple 25 butcher block sheets of paper. You know, you'll</p>		<p>1 we're up and down Nellis pretty regularly, so it's 2 a -- it's a common area, a common style apartment 3 complex.</p> <p>4 And then I was assigned as the shield 5 officer for the window team, or the stun stick team, 6 which is a win- -- the window -- window, slash, stun 7 stick team. So I knew in that situation I'd be 8 carrying a shield and a pistol, and I'd be providing 9 coverage for Officer Bertuccini, who was actually on 10 the -- the actual stun stick.</p> <p>11 Q. And, so -- and I just want to confirm, you 12 said -- because I was going to ask you this, but I 13 just want to confirm, like, you're familiar with 14 this area, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Had you -- do you -- do you know if you 17 served any other search warrants in this apartment 18 building before? Obviously not this apartment, but 19 this apartment building?</p> <p>20 A. In that complex? Probably -- likely.</p> <p>21 Yeah. Not 100 percent.</p> <p>22 Q. And I should have asked this before. Is 23 this the only officer -- have you been involved in 24 any other officer-involved shootings?</p> <p>25 A. As?</p>	
<p>1 have the -- the kind of overall info, you know, 2 location, address, all that, the number. Some of 3 the details.</p> <p>4 They'll have a -- they'll do a -- like a 5 rough sketch of the area where we're going, you 6 know, the structure and stuff like that, the 7 surrounding landscape.</p> <p>8 And then the third one will be essentially 9 the plan, more or less, where you're at, what your 10 job is, and what you're doing.</p> <p>11 So showed up, take a look at that, see 12 where I'm at, see what I'm doing. From there, 13 depending on what it is, I'll go prep whatever 14 equipment I need to prep for that specific job. And 15 then we'll -- we'll conduct the briefing.</p> <p>16 Q. And so for this one specifically where you 17 went at Sam's Town, you got there 15 minutes early, 18 and then can you walk me through your memory to 19 the -- as you remember it today, kind of the 20 briefing that you got, the outline you got, and what 21 your role on the -- like, what your duties were 22 going to be.</p> <p>23 A. Yeah. So, from what I recall is, it was a 24 homicide-related investigation. And we were serving 25 a controlled entry warrant at 3050 Nellis, which</p>	55		57
<p>1 have the -- the kind of overall info, you know, 2 location, address, all that, the number. Some of 3 the details.</p> <p>4 They'll have a -- they'll do a -- like a 5 rough sketch of the area where we're going, you 6 know, the structure and stuff like that, the 7 surrounding landscape.</p> <p>8 And then the third one will be essentially 9 the plan, more or less, where you're at, what your 10 job is, and what you're doing.</p> <p>11 So showed up, take a look at that, see 12 where I'm at, see what I'm doing. From there, 13 depending on what it is, I'll go prep whatever 14 equipment I need to prep for that specific job. And 15 then we'll -- we'll conduct the briefing.</p> <p>16 Q. And so for this one specifically where you 17 went at Sam's Town, you got there 15 minutes early, 18 and then can you walk me through your memory to 19 the -- as you remember it today, kind of the 20 briefing that you got, the outline you got, and what 21 your role on the -- like, what your duties were 22 going to be.</p> <p>23 A. Yeah. So, from what I recall is, it was a 24 homicide-related investigation. And we were serving 25 a controlled entry warrant at 3050 Nellis, which</p>	55		57

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

	58		60
<p>1 not the one that discharged your weapon?</p> <p>2 A. Several.</p> <p>3 Q. And if you could --</p> <p>4 A. Yeah.</p> <p>5 Q. Sure. If -- and I understand that some of</p> <p>6 this stuff is nearer and closer in time. When you</p> <p>7 say several, could you give me a range? Is that</p> <p>8 between, like, five and ten? Is that two to three?</p> <p>9 If you could give me kind of a range.</p> <p>10 A. Probably five to ten.</p> <p>11 Q. Okay.</p> <p>12 A. I believe. Somewhere around there. Yeah.</p> <p>13 Q. And were you -- for the -- for when you</p> <p>14 were present for other officer-involved shootings as</p> <p>15 you were part of the team, was that always when you</p> <p>16 were on SWAT?</p> <p>17 A. Yes. Yeah.</p> <p>18 Q. Okay. And can you tell me if you can</p> <p>19 remember, the nearest one in time to this incident?</p> <p>20 A. Nearest one in time.</p> <p>21 Q. The nearest one -- actually, let me -- let</p> <p>22 me back that -- strike that. Let me ask this</p> <p>23 instead.</p> <p>24 Do you remember the one that occurred</p> <p>25 closest in time before this?</p>		<p>1 probably -- that's a different type of scenario than</p> <p>2 what happened here.</p> <p>3 A. Correct.</p> <p>4 Q. Right. And so let me ask you, if you can</p> <p>5 remember, do you remember if any of the</p> <p>6 officer-involved shootings that you were present for</p> <p>7 involved service of a warrant?</p> <p>8 A. I think that could be -- so, service of a</p> <p>9 warrant. I mean, we --</p> <p>10 Q. And I'm a layperson, so --</p> <p>11 A. Yeah.</p> <p>12 Q. -- if I'm --</p> <p>13 A. So we have to have --</p> <p>14 THE REPORTER: Excuse me.</p> <p>15 THE WITNESS: Oh, sorry.</p> <p>16 BY MS. MURPHY:</p> <p>17 Q. She can't us take down both --</p> <p>18 A. Got you.</p> <p>19 Q. -- at the same time.</p> <p>20 But if I'm using the wrong terms, feel</p> <p>21 free to correct me or clarify it.</p> <p>22 Sorry, go ahead.</p> <p>23 A. Are you asking in the instance of a CET or</p> <p>24 a Surround and Callout?</p> <p>25 Q. Let me ask a CET first.</p>	
<p>1 A. Closest in time before. January of '22.</p> <p>2 I don't. I know, sorry. They're all kind of</p> <p>3 blending in with the time frames. I can't --</p> <p>4 Q. Okay.</p> <p>5 A. I can't say with 100 percent certainty.</p> <p>6 Q. And I don't need you to give me</p> <p>7 100 percent certainty. Just about this, if you</p> <p>8 could, to the best of your memory, tell me -- maybe</p> <p>9 we don't do before or after. If you could just tell</p> <p>10 me the other officer-involved shooting that you were</p> <p>11 present for closest in time to this one.</p> <p>12 And I don't need -- you are excellent at</p> <p>13 giving very exact details in your answers. You</p> <p>14 don't have to give me that exact detail. If you can</p> <p>15 just give me your best estimate, that's what I'm</p> <p>16 asking for.</p> <p>17 A. I know there was one in November. I can't</p> <p>18 recall if it was the year prior or the year after.</p> <p>19 Hostage rescue thing. Guy murdered a couple people,</p> <p>20 had a hostage in a vehicle. We ended up tracking</p> <p>21 him down and kind of boxing the vehicle in and --</p> <p>22 and the truck that I was in, my partner jumped out</p> <p>23 and ended up getting involved in the shooting.</p> <p>24 Q. Okay. And let me ask you if -- were</p> <p>25 any -- and I think it's fair to say that that's</p>	59	<p>1 A. Okay.</p> <p>2 Q. So, were you present, or do you remember</p> <p>3 were you present for an officer-involved shooting</p> <p>4 that involved a CET entry?</p> <p>5 A. No.</p> <p>6 Q. Okay. What about a Surround and Callout?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Can you walk me through what</p> <p>9 happened in that?</p> <p>10 A. That one. Give me a second; let me think</p> <p>11 about it. I believe it was a barricaded subject who</p> <p>12 was shooting at -- that would have been -- I take</p> <p>13 that back. I'm getting -- I'm getting confused. It</p> <p>14 would have been -- that would have been a barricaded</p> <p>15 person, so that would -- that would have been a call</p> <p>16 out, not an actual warrant. But it's -- we have to</p> <p>17 have a warrant first before we can typically do</p> <p>18 anything. So that's -- yeah.</p> <p>19 Q. Even --</p> <p>20 A. My confusion.</p> <p>21 Q. No, no, no, that's okay. And listen, I</p> <p>22 know that we're talking about stuff that happened</p> <p>23 years ago. And so I'm just asking for your -- you</p> <p>24 know, for the -- for your best memory.</p> <p>25 And so the barricaded -- so if somebody</p>	61

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

	62		64
<p>1 was barr- -- had you been -- had your team been 2 trying to serve a warrant? And the person 3 barricaded themselves in as a result?</p> <p>4 A. This was -- been more of a -- patrol would 5 have called us. Because they were dealing with it, 6 yeah. They were trying to take somebody into 7 custody or trying to apprehend somebody who then 8 became barricaded and then started shooting.</p> <p>9 Q. Okay. And then SWAT gets called in for 10 that, correct?</p> <p>11 A. Correct, yeah. Yeah.</p> <p>12 Q. And my understanding, in terms of the 13 service of the warrant, if you are not on the recon 14 team, you don't -- do you get much information about 15 the warrant itself?</p> <p>16 A. No.</p> <p>17 Q. Okay.</p> <p>18 A. Just an overview.</p> <p>19 Q. And is -- if -- this is my understanding, 20 and you tell me if I'm right or wrong.</p> <p>21 The purpose of SWAT is to kind of just go 22 in there, serve the warrant, and then the detectives 23 come in after, correct?</p> <p>24 A. Correct, yeah.</p> <p>25 Q. And so, in this instance, did you know</p>		<p>1 homicide investigation.</p> <p>2 Q. Okay.</p> <p>3 A. Or evidence of the homicide. That's 4 usually what we're told. So...</p> <p>5 Q. Which -- and this is just out of -- out of 6 curiosity.</p> <p>7 Which areas of LVMPD would give you more 8 detailed rundowns? Like, which units?</p> <p>9 A. Narcotics typically give very -- very 10 detailed information. Patrol station, Flex teams, 11 also.</p> <p>12 Q. What's a Flex team?</p> <p>13 A. PSU, Flex. It changes names throughout 14 the years. So, like, a plain clothes investigative, 15 street enforcement teams.</p> <p>16 Q. And so just to confirm, because you talked 17 earlier that -- that you have now -- you're now on 18 Internal Affairs, and you wouldn't be comfortable 19 coming back, even for the short time that you've 20 been gone, you wouldn't be comfortable coming back 21 and commenting on how a SWAT unit did something, 22 correct?</p> <p>23 A. I don't feel, no, no. That I...</p> <p>24 Q. Okay. And so is it fair for me to assume 25 that as part of your duties as a sergeant in IA, you</p>	
	63		65
<p>1 what the warrant was seeking?</p> <p>2 A. I don't -- I don't remember.</p> <p>3 Q. Okay. In this instance, was it your 4 understanding that one or both of the suspects could 5 be present in the apartment?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And what was your -- how did you 8 come to that understanding? One or both? Was it 9 one or both?</p> <p>10 A. I believe it was looking -- again, details 11 are a little foggy. Because I know we -- so 12 typically when we do do the briefing for the 13 warrants, we'll have a detective from the 14 investigative unit come out and kind of give us a 15 rundown.</p> <p>16 Q. Was a detective present at this briefing 17 at Sam's Town?</p> <p>18 A. I believe he was.</p> <p>19 Q. Okay.</p> <p>20 A. So, depending on what unit it is and the 21 detectives, some of those briefings are very good 22 and thorough; some are very generic, broad 23 overviews. Typically homicide is -- is more generic 24 and broad. Hey, we're looking for, you know, this 25 person or that person or these people related to a</p>		<p>1 no longer serve search warrants?</p> <p>2 A. Correct.</p> <p>3 Q. All right. Okay. So, in this case, do 4 you remember the homicide detective being there 5 specifically, or do you just think I assume he was 6 there?</p> <p>7 A. I believe there was one there.</p> <p>8 Q. Okay.</p> <p>9 A. I believe there was.</p> <p>10 Q. Okay. And, to confirm, so was part of the 11 intention, as you understood it, of serving the 12 search warrant to apprehend either one or both of 13 the murder suspects?</p> <p>14 A. Yes. I believe we were going for a 15 suspect and a -- evidence related to a homicide. So 16 a firearm.</p> <p>17 Q. Did you have an understanding if this 18 search warrant was an arrest warrant and a search 19 warrant for property, or did you have -- did you 20 have any understanding of that?</p> <p>21 A. I just know it was a search warrant for 22 anybody in the premise, property, that's it.</p> <p>23 Q. Okay.</p> <p>24 A. I didn't ask specifics.</p> <p>25 Q. But the purpose of -- was your</p>	

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p style="text-align: right;">66</p> <p>1 understanding, as you were given that briefing at 2 Sam's Town, that part of the purpose of serving the 3 warrant was also to apprehend the suspects?</p> <p>4 A. Well, we would take anybody that's -- 5 that's present into custody. So whether you were 6 involved or not, you're getting taken into custody. 7 And that's for the investigative unit, once we turn 8 it over then, to determine, hey, we have our suspect 9 we're looking for, or this person is not related. 10 Let's go ahead and send them on their way.</p> <p>11 Q. And so then explain to me, what's the 12 difference, then, between a search warrant and an 13 arrest warrant?</p> <p>14 A. So, arrest warrant, you're looking for 15 somebody specifically. A search warrant is giving 16 you that authorization to go into the premise to 17 look for that person, look for evidence. I mean, it 18 could be --</p> <p>19 Q. And then if you -- 20 A. -- numerous factors.</p> <p>21 Q. Right. And then anyone who's there is 22 going to be detained, correct?</p> <p>23 A. Correct, yeah.</p> <p>24 Q. Okay. So just to loop back to my prior 25 question, then, was part of your understanding of</p>	<p style="text-align: right;">68</p> <p>1 killing a suspect. So that typically never happens 2 in those type of situations.</p> <p>3 Q. Well, to be clear, Mr. Williams was not a 4 suspect in this homicide, correct?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. He wasn't a suspect in any kind of 7 homicide, correct?</p> <p>8 A. No. But he shot at the police. Yeah.</p> <p>9 Q. Right. And so I'm skipping ahead a little 10 bit. But, also, there was no evidence related to 11 this murder recovered at this residence, either, was 12 there?</p> <p>13 A. I don't -- I'm not -- I don't know if 14 there was or wasn't.</p> <p>15 Q. Okay, okay. If I were to represent to you 16 that no evidence related to this homicide was 17 recovered at this residence, would you also qualify 18 that as weird?</p> <p>19 A. I wouldn't -- no. No. Because the other 20 thing that I understood, it was -- it was a 21 flophouse, so a lot of people came and went and kind 22 of used it to transition through. So, typically, 23 when that happens, people take everything they bring 24 with them, they take it with them. Because if they 25 leave it, it's going to disappear.</p>
<p style="text-align: right;">67</p> <p>1 the purpose of serving the search warrant was to 2 apprehend the suspects in this murder?</p> <p>3 A. You could get technical and say that, yes. 4 Yeah.</p> <p>5 Q. Okay. We are getting technical.</p> <p>6 A. Yeah. I mean, we could say, yeah, that 7 anybody involved -- anybody -- the way I understood 8 it, anybody -- or -- there was a person inside that 9 apartment that was involved in a potential homicide 10 investigation.</p> <p>11 Q. Okay.</p> <p>12 A. So, yes.</p> <p>13 Q. And as we sit here today, do you 14 understand that nobody involved in the homicide was 15 present in that apartment?</p> <p>16 A. I found that out later, yes.</p> <p>17 Q. Okay. Were you -- what was your position 18 when you found that out later? How did you react to 19 that?</p> <p>20 A. React? As?</p> <p>21 Q. What was your feeling about it?</p> <p>22 A. I actually thought it was weird we didn't 23 find anybody involved. The homicide we were going 24 there for, because we ended up taking gunfire. We 25 had an officer shot. We ended up shooting and</p>	<p style="text-align: right;">69</p> <p>1 Q. And when did you learn that this was a 2 flophouse?</p> <p>3 A. I believe that was said during the -- the 4 briefing. Is they knew that -- they knew people 5 were transitioning in and out of the apartment. I 6 believe on the recon, they said when they were out 7 on the recon, they observed people standing out 8 front.</p> <p>9 So, I think it was a one- or two-bedroom 10 apartment, which those places -- typically -- if 11 you're not on the lease you're not supposed to be 12 there. So not saying you can't have people over. 13 But what I gathered is, it was -- people were coming 14 in and out of the apartment, staying there, that 15 probably weren't associated with the apartment.</p> <p>16 Q. And if I understand correctly, and you 17 tell me if I'm right or wrong, there was actually 18 two apartments that they intended to serve search 19 warrants on, correct?</p> <p>20 A. Yes. I believe we were going to serve a 21 warrant on the first one and then go to a second 22 one.</p> <p>23 Q. Were you going to be involved in the 24 second one?</p> <p>25 A. I don't think I was, actually. I think</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

	70		72
1	they had enough manpower -- yeah, I think they had	1	correct?
2	enough manpower, where they were actually going to	2	A. Uh-huh.
3	send Officer Bertuccini and I home. They were going	3	Q. Okay. So it was your understanding based
4	to keep the other officer that came in with us.	4	on this briefing that it was going to -- it was a
5	Q. And so when you qualified this as a	5	flophouse. But the intention of the warrant as you
6	flophouse and that your memory is that somehow that	6	understood it was to obtain evidence related to a
7	was relayed to you during this briefing, was that	7	homicide; is that -- or did you not have any
8	relied to you about this apartment or the second	8	understanding of that?
9	apartment?	9	A. Any I understanding of?
10	A. We only talked about this first apartment.	10	Q. What the intent of the warrant was.
11	We didn't -- we didn't brief or plan or go over the	11	A. As far as evidence --
12	second apartment. We would have done that after we	12	Q. Yeah.
13	handled this one.	13	A. -- goes?
14	Q. Okay. So your testimony here today is	14	Q. Yes.
15	that the briefing at Sam's Town only involved this	15	A. I don't believe so. I just -- I know -- I
16	apartment, not the second --	16	know for a fact we were serving a warrant on this
17	A. Correct.	17	apartment related to a homicide. Whether --
18	Q. -- apartment? Okay.	18	whatever evidence was listed, I -- I don't recall.
19	A. We were told there was a second apartment	19	So -- and then same with the suspects.
20	that we would handle after this one was secured and	20	They'll some -- we'll typically have detailed
21	handled.	21	suspect information. But at the end of the day,
22	Q. Okay. So, we've come up to the point	22	that really doesn't concern me. Because as the SWAT
23	where -- where you've done the briefing at Sam's	23	team, we're going to take everybody that's --
24	Town. And it's your testimony here today that you	24	everybody that's in that premise can be taken into
25	were relayed information that this was some type of	25	custody under the search warrant. So we're going to
	71		73
1	flophouse and that there might have been people	1	take those people into custody and we're just going
2	standing out front, correct?	2	to hand them over to the detectives. And that's
3	A. Uh-huh.	3	their job, then, to figure them out. So whether
4	Q. And it's your memory as we sit here today	4	there was one person in there or 15, we're going to
5	that only information about the apartment, the first	5	take everybody. Because our job is to make the
6	apartment, was gone over at the briefing, correct?	6	scene safe and then let them determine it. So, the
7	A. Yes.	7	way that I would look at it would -- would be that
8	Q. Okay. And that it was -- just to confirm,	8	way.
9	it was your understanding -- it was relayed to you	9	Q. Okay. All right. So now we've gone
10	that likely, the suspect from the murder that they	10	through what occurred at the -- at the Sam's Town
11	were investigating would be present at this first	11	briefing.
12	apartment, correct?	12	A. Okay.
13	A. Correct.	13	Q. If you can kind of walk me through what
14	Q. Okay. And also just to confirm, in fact,	14	happened following the briefing. And like -- I
15	that suspect was not present, correct?	15	mean, I made the offer again, do you want to take a
16	A. I believe after they (indiscernible).	16	quick break? Because I know this will be a long,
17	THE REPORTER: You believe after?	17	long dialogue.
18	THE WITNESS: After he wasn't -- that he	18	THE REPORTER: I would.
19	wasn't.	19	MR. ANDERSON: She's all that matters.
20	BY MS. MURPHY:	20	MS. MURPHY: The queen has spoken.
21	Q. And -- sorry. And so let me ask your	21	THE VIDEOGRAPHER: Off record at 11:28.
22	opinion, because you talked about it a little	22	(Off record.)
23	earlier. You said look -- you tell me if I	23	THE VIDEOGRAPHER: We are back on record
24	misunderstood your testimony. You said, hey, look,	24	at 11:39 a.m.
25	with a flophouse, people don't leave stuff behind,	25	...

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>74</p> <p>1 BY MS. MURPHY:</p> <p>2 Q. Prior to taking our short breaks, we had 3 gone through the briefing at Sam's Town. And now if 4 you could kind of walk me through what happened -- 5 and we can break it up however you want, or if you 6 want to go through the whole dialogue, that's fine. 7 But if you want to -- so the briefing's concluded at 8 Sam's Town, and then what happens?</p> <p>9 A. After the briefing, at that point --</p> <p>10 Q. Sorry, I will try not to interrupt you 11 going forward.</p> <p>12 We're going to review the body-worn camera 13 footage, too, so I'm not trying to do a memory test 14 to you, I just want you to walk me through --</p> <p>15 A. That's fine.</p> <p>16 Q. -- and then we're going to review the BWC 17 too.</p> <p>18 A. Very simple. After the briefing, we'll -- 19 we'll typically go load -- or help load up any 20 equipment that we need to bring along. Bring a lot 21 of standard equipment with us and stuff.</p> <p>22 I think in this situation, or in this 23 specific instance, we were taking my vehicle, my 24 SWAT vehicle, my SWAT truck, Bertuccini and I. 25 So we dressed out, loaded up, loaded our</p>	<p>76</p> <p>1 can you explain that to me?</p> <p>2 A. I believe in this incidence we had what -- 3 we had one of the armored vehicles with us, so we'll 4 typically have one of those vehicles that will lead, 5 followed by the other trucks, right? So -- because 6 in this instance -- I can't remember how many 7 officers we had, but we didn't have enough to fit in 8 the armored vehicle.</p> <p>9 Q. You mean you had too many to fit in there 10 or not enough?</p> <p>11 A. I wouldn't say that. I'd say it's 12 probably between the equipment and you typically 13 ride on the outside of it. So we don't like to 14 overload that in case, you know, get in an accident 15 or somebody hits us --</p> <p>16 Q. Sorry, maybe I misunderstood. When you 17 said -- you meant that you had too many for everyone 18 to ride in the armored vehicle, right? Or you had 19 too --</p> <p>20 A. Yeah. There was just -- yeah, too many 21 officers. I mean --</p> <p>22 Q. All right.</p> <p>23 A. -- we fit -- try to fit six or eight on an 24 armored vehicle, which isn't a lot. But everybody 25 else -- because we -- I think they only -- we only</p>
<p>75</p> <p>1 equipment up in my truck, and then we kind of have 2 a -- you know, a little vehicle package that leaves 3 Sam's Town. So we're -- we're briefed the route and 4 which way we're going, how we're getting there, you 5 know, where our -- where we're turning, where we're 6 stopping and all that.</p> <p>7 I remember we left Sam's Town, came out, 8 went -- where did we go? Right -- northbound right 9 on Nellis, right into the apartment complex. We 10 pulled in to the left, went down a couple hundred 11 feet, parked the truck, stopped, got out. From 12 there, went to get out --</p> <p>13 Q. Sorry, what -- and I said I wasn't going 14 to interrupt you and I'm interrupting you. But what 15 does "dressed out" mean?</p> <p>16 A. So, we'll throw on our -- you know, our 17 vest, helmet, you know, get any of our -- you know, 18 make sure our weapons are good, you know, everything 19 is loaded. Make sure the -- basically, all our 20 equipment is good, right? We have all our equipment 21 on, all the stuff that we need. You know, whether 22 that's personal equipment or team equipment, 23 basically.</p> <p>24 Q. And you said that there will be a car 25 package. I think I know what you meant by that, but</p>	<p>77</p> <p>1 brought one armored truck -- typically bring two. 2 So -- but in that case, we had -- some of the other 3 plain SWAT vehicles like mine, just plain, unmarked 4 truck. And then we usually have K-9 with us in 5 their vehicle, because they have the dog in the 6 back. And then medical, so AMR, medical -- 7 whatever, community ambulance. And then the 8 detective vehicles will -- will trail behind. So 9 that's kind of the vehicle package.</p> <p>10 Q. Okay. And I thought I knew what you meant 11 by that, but I just wanted to make sure.</p> <p>12 A. No, no worries.</p> <p>13 Q. So, sorry. Keep going. So you guys 14 arrived, right?</p> <p>15 A. Yeah. So we get there, park the truck, we 16 get out. Grab the equipment out of the back seat 17 because it's kind of big and cumbersome. Can't 18 drive holding it. We get that. From there, we'll 19 all kind of just line up real quick. And we 20 already -- everybody kind of already knows their 21 place, where they're going.</p> <p>22 So we'll get lined up in that kind of 23 order, right? So, yeah, like, your -- your breach 24 team first, then your entry team, and then your 25 containment teams on the side or in the back. Just</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

	78		80
<p>1 depend on which -- where we're going exactly. 2 So from there, we'll just kind of line up 3 in the order that we need to go. So once we get to 4 where we're going we can -- everybody is, like -- 5 breaks off into their respective spots. 6 So we do that. And then we start our 7 approach on foot to the target -- 8 Q. Sorry, let me just stop you right there. 9 I want to ask. And I think I know what you mean by 10 these terms, but I just want a clean record. 11 A. Sure. 12 Q. What's the breach team? 13 A. The breach team. Whoever is going to open 14 the door, break the window, that kind of thing. 15 Q. And what's -- so I'm going to ask you the 16 difference, what's the difference between that and 17 the entry team? 18 A. So, the breach team, their sole 19 responsibility is to gain the access, right? 20 Whether that's ramming the door. In this case, ram 21 the door, right? And then they're not going to ram 22 the door and run in. They're going to ram the door, 23 move out of the way, let the entry team come in, and 24 by the time the last guy comes in, they're going to 25 fall in on the back.</p>		<p>1 Q. All right. And so -- and I'm going to 2 jump around a bit. I'm going to hold off on 3 going into the actual incident itself. 4 A. Sure. 5 Q. But as a result of this incident, did you 6 have to do, like, any counseling or therapy through 7 LVMPD? 8 A. After? 9 Q. Yeah. 10 A. Uh-huh. 11 Q. What did you have to do? 12 A. See a department psychologist. 13 Q. And how long? 14 A. How many visits did I have? I'm not sure. 15 Probably a handful. 16 Q. Okay. 17 A. Yeah. 18 Q. Maybe between five and six or somewhere in 19 that range? 20 A. Probably in that range, yeah. 21 Q. Okay. And did you have any emotional 22 impact or effect as a result of being involved in 23 this officer-involved shooting? 24 A. No. 25 Q. Okay.</p>	
<p>1 Q. Okay. And then what's the difference 2 between the entry team and the containment team? 3 A. So, the containment teams are -- what they 4 are, kind of contain kind of the area. So the entry 5 team is the one actually going inside, the 6 containment team is holding the outer -- the 7 outside, more or less. 8 Q. And so what team, as -- I know you were 9 holding the shield and you were on a group with 10 Bertuccini. But were you part of the breach team, 11 entry team, or containment team? 12 A. So, that would have been the window -- 13 we'll use different terms. That one was the window 14 containment team. So -- because we knew we were 15 going to window, we were going to take out that 16 window. But at the same time, we're going to 17 contain it, too. So -- you know, so nobody can jump 18 out of the open window we created. 19 Q. Okay. And I'm sorry, keep going. 20 A. No. So we get there. We start making the 21 approach on foot. And then we all break off in our 22 respective positions. And go -- go to work. 23 Q. Okay. 24 A. Wait for the plan to be initiated, more or 25 less.</p>	79		81

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>1 Q. So what does that mean? What did -- the 2 plan is getting started as we get to our final 3 position?</p> <p>4 A. So we will -- they'll make a determination 5 of how the plan will start. I know in this instance 6 it was, hey, as soon as we land, when we say land, 7 that means we're getting there, right? So as soon 8 as -- as soon as the breach team lands, so that 9 means the breach team is there at the front door and 10 they're getting prepared to use the ram and hit the 11 front door, the entry team is already stacked up. 12 So, hey, as we land, we're going to give out the 13 announcements. So bullhorn, hey, it's Metro police, 14 you know, give the address, location, whatever, or 15 yell out, police with a search warrant.</p> <p>16 They'll -- we'll kind of hustle around if 17 we're not already there, but make sure we're in our 18 position. And then I believe in this incidence, it 19 was on the -- I actually can't recall exactly, but I 20 believe it was on the second -- it's typically the 21 second or third announce is when we'll deploy our 22 little two-man plan with Officer Bertuccini and I of 23 inserting the stun stick into the window, breaking 24 out the window. And then I would step in with the 25 shield and cover the window.</p>	<p>82</p> <p>1 A. Yeah. 2 Q. Okay. So if I understand kind of what 3 you're telling me, was that you kind of heard, like, 4 what, like a couple -- you heard two announcements 5 and then what happens?</p> <p>6 A. We enact -- we enact our plan. 7 Q. Okay. And tell me in this case 8 specifically, describe to me what your plan was and 9 how you enact -- or describe to me the enactment of 10 your plan.</p> <p>11 A. For Officer Bertuccini and I? 12 Q. Correct. 13 A. Okay. So, on the second announcement, 14 that means he was going to break the window with the 15 stick, right? Insert it, and then deploy it, right? 16 So get the distract device to go off. And then at 17 the same time, he'll use that same stick and pull 18 the window out, like, the window coverings, you 19 know, the curtains, stuff like that. Whatever -- I 20 think -- I think there was mini blinds, in there 21 pull those down at the same time. Get a majority of 22 the glass out of the window. 23 And then he'll move back, and then I -- 24 I'll step in with the shield. Because I know the 25 team is also -- excuse me -- coming in as well,</p>
<p>1 So that kind of all came fairly quick, 2 right? So as -- I think -- as we were walking up 3 they started initiating the plan of, hey, we're 4 going to give out the police -- search warrant, 5 police search warrant, we hear that twice. We enact 6 our plan, they ram the door, go in. 7 Q. And so I read, you know, quite a bit -- 8 I've read a lot of different interviews. I know 9 you've only read your interview. 10 But what keeps coming up as I read these 11 is that the -- if I understand it correctly, kind of 12 the -- like, what was agreed or what your normal 13 course of action was, is that you guys had to wait 14 two announcements and then you could start the 15 breach, correct? 16 A. Okay. Is it -- is it two? I -- it's 17 usually two to three, yeah. 18 Q. Okay. And so -- and that was, like, no 19 matter how fast those two or three announcements 20 comes out, that was kind of what you guys would wait 21 for, right? Is, like, okay, wait for at least two 22 or three announcements and then we breach, correct? 23 A. Uh-huh. 24 Q. Okay. Sorry, keep going. So you're up at 25 the -- so you --</p>	<p>83</p> <p>1 right? So I have the shield, so there's not -- you 2 know, we can mitigate the crossfire issue of anybody 3 getting hit with crossfire. 4 And then, essentially, I'll fill the 5 window with the shield more or less, and see, you 6 know, what's going on in this case, you know. In 7 this instance, as soon as he pulled out of the 8 window and I stepped up, there was gunfire going 9 off. 10 Q. Okay. And how -- how big is the shield? 11 A. It's 24 by 36 inches. 12 Q. How heavy is it? You don't have to know 13 exact weight. If you could just kind of describe 14 it. 15 A. Ten to twelve pounds. 16 Q. Okay. 17 A. Yeah. 18 Q. And I'm going to ask you, when I was 19 reading your CIRT interview, you said, then I 20 stepped up with the shield. I just kind of laid it 21 off. I didn't fill the window completely, which I'm 22 glad I didn't. 23 A. Uh-huh. 24 Q. Why were you -- and I really want to know, 25 why were you -- I didn't understand that statement.</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

	86		88
<p>1 Why were you glad you didn't fill the window 2 completely?</p> <p>3 A. So, when I say "fill the window", I don't 4 mean, like, actually replacing the window with the 5 shield. I mean just -- presenting the majority of 6 the shield in the window, right? Because the goal 7 is, is the shield has a little view port in it, 8 right? Is to look through there to see, you know, 9 what's going on, right? In this case, it was taking 10 gunfire.</p> <p>11 So, had I been up to the window where 12 Williams was, because he turned back and fired at 13 me, which the shield was struck by his gunfire. Had 14 I been -- I was kind of can- -- my body was kind of 15 canted. Had I been, like, traditionally standing up 16 in front of it like this, instead of more like, you 17 know, standing off to the side position, I would 18 have been struck by his gunfire. So that's what I 19 meant when I made that statement.</p> <p>20 Q. And we'll go through it, too. But -- 21 because you just mentioned -- I kind of wanted to 22 get some clarification on that.</p> <p>23 Reading your prior interviews, it wasn't 24 clear to me, did you feel that Williams was shooting 25 at you specifically, or did you feel like he was</p>		<p>1 I would -- if I had to guess, and this is my guess, 2 is the light did draw his attention and that's why 3 he turned. And when I say turned, I mean, he was 4 laying on a couch. All he had to do was move his 5 hand over. So...</p> <p>6 Q. Right.</p> <p>7 A. And then shot out -- shot out at the 8 window where I was.</p> <p>9 Q. Right. But you hadn't -- you hadn't -- 10 you hadn't pulled your trigger of your gun at that 11 point in time, had you, when you just flashed the 12 light on and off?</p> <p>13 A. No.</p> <p>14 Q. Okay. And thank you for bearing with me. 15 I know I jump around, but you mentioned it, so I 16 wanted to get to that.</p> <p>17 A. Okay.</p> <p>18 Q. So, you guys come up to the -- if you 19 could kind of walk me through. You come up to the 20 window, you hear two announcements, and then -- I 21 know we've kind of covered it, but I'd like to hear 22 your whole narrative.</p> <p>23 So you come up to the window, and then 24 please walk me through what happened.</p> <p>25 A. So I come up to the window. At that point</p>	
<p>1 just arcing his gun?</p> <p>2 A. He shot at me specifically. Because I 3 could see the muzzle flashes from his gun. That 4 means he's shooting -- shooting at me. Plus, I 5 could feel the bullet hit the shield.</p> <p>6 Q. Right. I guess my question is a little 7 bit different. I don't mean is he shooting at 8 your -- in your direction. You talked about turning 9 your light on and off and how you thought that drew 10 his attention to -- in that direction -- in your 11 direction, correct?</p> <p>12 A. Yes.</p> <p>13 Q. So when I say shooting at you directly, 14 what -- I guess what I'm trying to dial in a little 15 bit more is, do you feel that he was shooting at you 16 specifically as an officer, or do you think that he 17 was just shooting around, and then also the light of 18 your gun distract -- pulled his attention? Do you 19 understand the difference I'm making?</p> <p>20 A. I mean -- yeah, we kind of -- really lead 21 up to that point with the whole light coming on and 22 off type thing.</p> <p>23 Q. Right. I jump around. Thank you for 24 bearing with me.</p> <p>25 A. But -- I don't know what his intent was.</p>	87		89
		<p>1 the window is already taken out, Bertuccini has kind 2 of stepped back off to my back left.</p> <p>3 Q. Yeah, so, sorry. I guess I was going 4 to -- I should have asked before. Is he to your 5 left or to your right?</p> <p>6 A. Left.</p> <p>7 Q. Okay. So he goes to the window, steps 8 back, and then you pull up, right?</p> <p>9 A. Uh-huh.</p> <p>10 Q. Is it -- I don't --</p> <p>11 A. Step up, walk up.</p> <p>12 Q. Okay. So, sorry, go ahead.</p> <p>13 A. So I -- he steps out, I step up. Because 14 of the distract device, when it goes off, especially 15 inside of a structure, it creates a lot -- you know, 16 it's designed to create smoke and flash and noise. 17 It creates quite a bit of smoke. And where it's 18 deployed, that smoke is pretty heavy.</p> <p>19 So, the vacuum effect or the air flow at 20 that time when they hit the front door open with the 21 window being broken, it created all that smoke to 22 kind of get pushed out of the window. So as I 23 stepped up, I kind of was stepping up into the 24 smoke, of the distract device going off.</p> <p>25 So I stepped up -- I could hear the</p>	

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>90</p> <p>1 gunfire, but I couldn't really see where it was 2 from. So I clicked on the light, the pistol that I 3 have has a light on it. I clicked it on and 4 immediately was blinded because of all the smoke. 5 So, that smoke, you know, dissipates real quick. I 6 mean, it -- you know, it's not like it hangs around 7 for ten minutes, right?</p> <p>8 So, in that time from clicking my light 9 off, it -- or clicking it on and then clicking it 10 off, that's when I saw the muzzle flashes and felt 11 the shield getting hit. And I was, like, okay, the 12 guy is right here. He's right in front of me.</p> <p>13 So, I -- and I knew the officers -- I had 14 seen them kind of come out and go -- you know, come 15 along this way in the apartment. So, I was able to, 16 you know, quickly realize, like, okay, he's right 17 here, kind of in this corner. So then I clicked 18 light back on the second time, the smoke had already 19 kind of dis- -- you know, cleared out, clicked on 20 the light, saw him shooting, and so I had to return 21 fire and shoot -- shoot back.</p> <p>22 Q. Okay.</p> <p>23 A. So...I ended up firing three rounds. And 24 then at that point, I -- I assessed that, okay, he's 25 not moving any more. He's deceased, right? So,</p>	<p>92</p> <p>1 that. We're just going to go over that stuff. 2 And so in terms of the shield -- hold on 3 one second. I'm going to tear this off. Okay. I'm 4 going to hand you pictures of what I understand are 5 the shield. If we could please mark these as?</p> <p>6 THE REPORTER: 3.</p> <p>7 MS. MURPHY: 3, Exhibit 3.</p> <p>8 (Exhibit No. 3 was marked.)</p> <p>9 BY MS. MURPHY:</p> <p>10 Q. And I know that you don't have a 11 photographic memory, but if I present this to you, 12 that this has been put in the report that this was 13 the shield that you used at the time of the 14 officer-involved shooting, is that consistent with 15 your memory?</p> <p>16 A. Uh-huh. Yes.</p> <p>17 Q. And it shows the -- I guess it's the 18 bullet point, it's marked as A1 right here. Do you 19 see that? Is that -- is that -- I'm assuming 20 they're trying to --</p> <p>21 A. Yes.</p> <p>22 Q. -- call that out.</p> <p>23 A. Yeah.</p> <p>24 Q. And so this is the shield, and that's 25 the -- they also called it out as the round impact,</p>
<p>91</p> <p>1 stop -- I stopped firing. I believe everybody else 2 did, too, at kind of the same time.</p> <p>3 So at that point, I stayed in the window 4 because that's my job. Just kind of observe what 5 was going on real quick, make sure everybody was 6 good. I didn't realize anybody had really been shot 7 yet. So I know I had, right, the shield -- well, 8 the shield had that I was holding, so I kind of 9 stepped back real quick and look and -- I looked at 10 the shield, and I was, like, oh, man, you know, the 11 shield took a couple rounds.</p> <p>12 And then I know Bertuccini and I asked, 13 hey, are you okay? Are you good? Let's check 14 yourself. Check yourself, cool. We both realized 15 we -- we weren't struck by gunfire.</p> <p>16 And then after that, it's -- just the -- 17 kind of the FIT and CIRT process that follows, you 18 know. And that's -- right? Treating the injured 19 officer, containing the scene, locking it down. You 20 know, kind of the police response to shootings, 21 right? You know, isolating the -- the officers who 22 shot, right, and all that.</p> <p>23 Q. Let's take -- let's kind of pause there, 24 and we'll get into the rest of it. I just want to 25 go back over -- I've got some photos and stuff like</p>	<p>93</p> <p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. All right. And then I'm going to ask -- 4 this is another page from the report, and it's Bates 5 LVMPD 004271. We'll mark this as Exhibit 4. 6 (Exhibit No. 4 was marked.)</p> <p>7 BY MS. MURPHY:</p> <p>8 Q. James, is this you?</p> <p>9 A. That's me.</p> <p>10 Q. All right.</p> <p>11 A. Yup.</p> <p>12 Q. And so when you said earlier "dressed 13 out", is this what you meant? You're -- I would 14 call it suited up, but...</p> <p>15 A. Yes, yeah.</p> <p>16 Q. And this is taken from the -- is this 17 photo taken from the day of the incident, to the -- 18 do you know -- if you can --</p> <p>19 A. Yes, it was. Yeah.</p> <p>20 Q. And so this is all the equipment that you 21 were wearing on the day of the incident, correct?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. And there's also a picture of a -- 24 what I understand is a Glock 17 on here. Was this 25 your service weapon the day of this incident?</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p style="text-align: right;">94</p> <p>1 A. Correct. 2 Q. And this is -- is this the weapon that you 3 discharged? 4 A. Correct. 5 Q. And you talked about the light that you 6 turned on. Is this -- I mean, it looks to me like 7 a -- like a little flashlight underneath. Is that 8 what you had turned on? 9 A. Yes. 10 Q. Okay. Do you know what kind of flashlight 11 that is, by any chance? 12 A. It's called a Modlite, M-o-n- -- or 13 M-o-d-l-i-t (sic). 14 Q. And you seem to know about it pretty well. 15 Can you tell me, is there, like, something special 16 about that kind of light? 17 A. It's just a higher quality light. 18 Q. And you tell me if I'm -- what do you mean 19 by higher quality? Sorry. Like, brighter or more 20 focused? 21 A. Just, knowing it, you know, through kind 22 of tactical industry, that it's a -- it's a 23 well-known brand. Like, it's, you know, military 24 uses it, stuff like that. Just a robust -- you 25 know, it's --</p>	<p style="text-align: right;">96</p> <p>1 this something special for SWAT? 2 A. This is standard for Metro overall, yeah. 3 Q. Okay, all right. And then I'm going to 4 hand you some other photos, and I'm going to ask 5 that we mark this as Exhibit 5. This is another 6 page with a photo of the actual -- I believe the 7 apartment building, and it's Bates LVMPD 004405. 8 (Exhibit No. 5 was marked.) 9 BY MS. MURPHY: 10 Q. And this has been described in the report 11 as Officer Rothenburg's perspective. Would you 12 agree with that? 13 A. Yeah, yes. 14 Q. Okay. As we sit here today, and the 15 shield's sitting there, too. As we sit here today, 16 is this the window that, to your recollection, 17 Officer Bertuccini had put the stun stick through 18 and then you put the shield -- 19 A. Yes. 20 Q. -- in front of? 21 All right. And so I see -- you tell me if 22 I'm right or wrong. I see that the shield was still 23 there. So when you left this area, you just left 24 the shield there; is that correct? 25 A. Yes.</p>
<p style="text-align: right;">95</p> <p>1 Q. If I -- 2 A. You can drop it more than once. Battery 3 life is good. 4 Q. If I called this a military-grade light, 5 would you agree with that? If you don't, that's 6 fine. 7 A. I would say that they use it. 8 Q. Okay. 9 A. But, yeah. 10 Q. Okay. So is -- would it be fair if I said 11 that this is a light that is commonly used by -- by 12 either police officers or military; is that 13 accurate? 14 A. Correct, yeah. Uh-huh. 15 Q. And does the gun -- I don't know anything 16 about the guns. Does the gun come like this or do 17 you put it on there? 18 A. No, the light and then the sight up there 19 on the top is after. That's -- doesn't come with 20 the gun. 21 Q. Okay. And is it -- is this standard, 22 though, that they -- the police force for SWAT 23 modifies these Glocks like this? Or is it just 24 for -- sorry, strike that. Let me ask this again. 25 Is this standard for all officers, or is</p>	<p style="text-align: right;">97</p> <p>1 Q. Okay. Is that, like, standard protocol? 2 Like, if you would have a piece of equipment like 3 that and there's an officer-involved shooting, you 4 just leave it there? 5 A. Yeah. It was considered a piece of 6 evidence at that point, yeah. 7 Q. Okay. And I guess that's a better way for 8 me to ask that, is that was, like, is it normal, 9 something's considered a piece of evidence that you 10 just leave it on the scene? 11 A. Yes. 12 Q. But you didn't leave your gun on the 13 scene, did you? 14 A. No. 15 Q. Did you hand that over to somebody 16 immediately? 17 A. Not initially, no. 18 Q. Okay. 19 A. But they did take it, yeah. 20 Q. How soon after did they take it? 21 A. Couple hours. 22 Q. Okay. And, so, we kind of walked through 23 the actual incident itself. And like I've said a 24 few times, we're going to watch the BWC as well. 25 But if we can kind of -- we'll loop back to that.</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

	98		100
<p>1 If I can -- you can kind of tell me about what 2 happened in the hours after the incident. 3 A. Okay. 4 Q. So obviously -- not obviously. But, 5 they -- just to confirm, you weren't on the breach 6 team. You didn't go through the front door, 7 correct? 8 A. Correct. 9 Q. Okay. And so everything kind of -- would 10 they -- would you call it securing the apartment? 11 A. As far as? 12 Q. Like, everyone -- like, everyone is kind 13 of accounted for, Kubla's been taken out. 14 A. Securing the area, yeah. 15 Q. Okay. So the area has been secured. And 16 so then what happens then? 17 A. At that point, we're just kind of waiting 18 for the notifications to be made to all the 19 respective investigative units. This, I believe, is 20 five-something in the morning. So they're probably 21 still -- I would assume they were still asleep. So, 22 you know, have to wait for them to get up, get 23 dressed, respond to where we were at. So it takes a 24 little while. 25 And then also with it being an</p>		<p>1 arrived. 2 Q. Is that a PPA attorney? 3 A. FOP. 4 Q. FOP, okay. 5 A. FOP attorney. 6 In the meantime, they -- while waiting to 7 be interviewed, because they had -- you know, there 8 was quite a few officers involved, I believe I 9 conducted an interview with the Force Investigation 10 Team first, FIT. 11 And then from there, I waited -- they gave 12 me a Breathalyzer test, right, to see if I had 13 consumed any alcohol previously. And then also 14 conducted a urinalysis as well. They took that. 15 Then I met with the PEEP representatives, 16 employee -- Police Employee Assistance Program. So, 17 talked to them. 18 And then I went and did the actual 19 criminalistics process, which -- that's when they 20 take -- take my handgun, right? Take the handgun in 21 this case. They took it, photographed it, wrote 22 down all the serial numbers. They took all the 23 ammunition that I had, that I was carrying, and 24 counted it all down. How many kind of bullets were 25 there, to make sure that, you know, I said I fired</p>	
<p>1 officer-involved shooting, they have to get, you 2 know, the criminalistic section out there, right? 3 CSI to come out and process the scene. So, there's 4 interviews involved, there's body camera review. So 5 it's a fairly lengthy process initially. 6 Q. Okay. And that occurs at the scene, 7 correct? 8 A. Yes. 9 Q. And so if you can remember, to the best of 10 your memory, if you can give me your best estimate, 11 too, approximately how long after the actual 12 officer-involved shooting did you remain on the 13 scene for? 14 A. About six hours. 15 Q. Okay. And is it fair for me to assume 16 that that six hours kind of involved you getting 17 interviewed, providing evidence, them doing these 18 types of things? Or tell me -- is that correct? 19 A. Yes. 20 Q. Okay. Did they do things, like, did they 21 swab your hands for gun powder? I really don't 22 know. I'm asking. 23 A. No. So they'll -- I had to write -- you 24 know, I'm entitled to representation at that point. 25 So, I was waiting for my attorney to arrive. He</p>	99	<p>1 three rounds, that three rounds were expended. 2 And then they noticed me for the 3 investigation, you know, for the -- the CIRT 4 interview and all that stuff. 5 And then released -- basically released me 6 back to SWAT, SWAT team, right? So we had to 7 collect up all the equipment and stuff that we had. 8 And then leave -- leave the scene eventually. 9 Q. Did you go back to work the next day or 10 did you have a certain amount of time off relative 11 to the -- being involved in the officer-involved 12 shooting? 13 A. No. They make you take time off, yeah. 14 Q. Do you remember approximately how long you 15 took off? 16 A. I believe I was off for close to six 17 months. 18 Q. Okay. 19 A. Almost, yeah. 20 Q. And was that -- do you understand -- do 21 you know why you were off for that length of time? 22 A. Just -- it's just the length of the 23 investigation, more or less. That, and coupled with 24 the -- meeting with the psychologist, right? And 25 their assessment of when they determine you're</p>	101

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>1 mentally fit to go back to work. So...</p> <p>2 Q. Okay. And having reviewed what I think is</p> <p>3 actually the -- the CIRT interview, there was two --</p> <p>4 and we talked about it a little bit. There was two</p> <p>5 interviews, right? There's the FIT interview and</p> <p>6 then there's the CIRT interview, correct?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. And so the FIT interview was taken</p> <p>9 that same day, correct?</p> <p>10 A. (The witness moved his head up and down.)</p> <p>11 Yes.</p> <p>12 Q. But it wasn't on the scene, you went</p> <p>13 somewhere. Did you go down to, like, an office?</p> <p>14 You went down to an office, correct?</p> <p>15 A. No, it was on -- it was on scene.</p> <p>16 Q. Okay.</p> <p>17 A. Yeah. In the parking lot.</p> <p>18 Q. Okay. All right. And then my</p> <p>19 understanding, having reviewed the CIRT -- your CIRT</p> <p>20 statement is that that was nine days later; is that</p> <p>21 consistent with your recollection?</p> <p>22 A. I believe so. I don't remember how many</p> <p>23 days or far apart it was.</p> <p>24 Q. It was -- was it fair to say that -- well,</p> <p>25 you tell me. Is your memory that it was kind of</p>	<p>102</p> <p>1 reaction for it to deploy. You have to pull it down</p> <p>2 and then let go of it, right?</p> <p>3 So the first couple times people use it,</p> <p>4 they tend to, like, let the handle ride, which is</p> <p>5 not enough force to hit the shotgun primer. So</p> <p>6 that's why I kept saying pulling it, pull it. Or if</p> <p>7 they don't pull it all the way down, then that will</p> <p>8 also create that kind of malfunction, more or less.</p> <p>9 Q. Do you think that there's an actual</p> <p>10 problem with how this is designed?</p> <p>11 A. No.</p> <p>12 Q. Okay.</p> <p>13 A. No.</p> <p>14 Q. But do you think that -- you tell me if</p> <p>15 this is right or wrong. Do you think Bertuccini</p> <p>16 kind of fumbled with it a little bit?</p> <p>17 A. No, not that he fumbled with it. I mean,</p> <p>18 he just had to release it. That's it.</p> <p>19 Q. Okay.</p> <p>20 A. So...</p> <p>21 Q. And then --</p> <p>22 A. But they're also -- I'm sorry.</p> <p>23 Q. No, no, keep going. Please keep going.</p> <p>24 A. There also is a delay, too. Right? So</p> <p>25 there's, like, a -- I think a one-and-a-half second</p>
<p>1 fairly soon thereafter?</p> <p>2 A. Yes, yes.</p> <p>3 Q. And these interviews seem pretty intense.</p> <p>4 What was your feeling -- what was your experience</p> <p>5 going through these interviews?</p> <p>6 A. It's just very thorough.</p> <p>7 Q. Okay. And did you make any notes that you</p> <p>8 took with any -- to any of the interviews with you?</p> <p>9 A. No.</p> <p>10 Q. Okay. All right. And we'll see it in the</p> <p>11 body-worn camera footage, too.</p> <p>12 But was there an issue with Officer</p> <p>13 Bertuccini having a problem with the stun stick?</p> <p>14 A. Initially, I just kept telling him to</p> <p>15 pull. I kept saying pull, pull, pull. Because it</p> <p>16 was a newer -- it was a newer stun stick that we</p> <p>17 were using. So, take -- get it to actually deploy,</p> <p>18 it's -- I don't know -- it's not difficult, but it</p> <p>19 required -- you know, it's a plunger-type system.</p> <p>20 But you have to release it because it's -- it's</p> <p>21 spring-loaded.</p> <p>22 So if you pull it down and then let it</p> <p>23 ride up, like -- it's got to hit a -- basically a</p> <p>24 shotgun primer. So if you try to ride it up, it</p> <p>25 won't engage the primer which will start the chain</p>	<p>103</p> <p>105</p> <p>1 delay on it.</p> <p>2 So sometimes they'll already pull it, and</p> <p>3 you're already, like, hey, pull, pull. And they've</p> <p>4 already done it, you're just kind of waiting for it</p> <p>5 to go off. So it could have been a little bit of</p> <p>6 that, too.</p> <p>7 Q. Now, maybe this is a dumb question. How</p> <p>8 does this not blow up in your hands?</p> <p>9 A. It's on top of a stick.</p> <p>10 Q. Okay.</p> <p>11 A. Yeah.</p> <p>12 Q. That's where the actual firing mechanism</p> <p>13 is? Or, like, where the gun powder is loaded?</p> <p>14 A. The distract device is at the top, yeah.</p> <p>15 Q. Okay, all right. And then I wanted to --</p> <p>16 you talked about it a little bit, but I wanted to go</p> <p>17 back to this. Because what you said in your CIRT</p> <p>18 statement was, so when I shined my light into the</p> <p>19 smoke, it basically -- it blinded me. I couldn't</p> <p>20 see anything, like, shining or headlights in the</p> <p>21 fog.</p> <p>22 A. Uh-huh.</p> <p>23 Q. And so we talked about it a little bit</p> <p>24 before, and I just want to confirm. Yeah, when you</p> <p>25 turned that light on, it actually created an</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p style="text-align: right;">106</p> <p>1 atmosphere where nothing could be kind of seen; is 2 that correct? 3 A. Correct. 4 Q. Okay. And as we sit here today, your 5 testimony is that you think that the shining of the 6 light drew Mr. Williams' attention to your 7 direction, correct? 8 A. Uh-huh. Correct. 9 Q. Okay. And I apologize if I've asked this. 10 But just so that I understand. You didn't 11 understand what the -- did you know what the actual 12 search warrant was looking for? 13 A. Just the homicide suspect. 14 Q. Okay. 15 A. Yeah. Not identified specifically. 16 Q. Okay. Do you think that it's necessary 17 for you to know what items a search warrant is 18 looking for? 19 A. No. 20 Q. Okay. Do you -- and I know that you're 21 saying no, but I'm going to ask you a follow-up 22 question. 23 A. Uh-huh. 24 Q. So wouldn't you -- is -- is your approach 25 different if the items are something that can</p>	<p style="text-align: right;">108</p> <p>1 hard, physical evidence that can't easily be 2 destroyed, correct? 3 A. Correct. 4 Q. And so you tell me if I'm right or wrong. 5 You knew that this was a homicide warrant, correct? 6 A. Uh-huh. 7 Q. And so was your -- did you even think 8 about it, or was just the assumption, like, well, 9 we're looking for homicide-type stuff, like a gun or 10 knife or something like that. 11 A. Yes. 12 Q. Okay. But you were also looking for the 13 suspects, correct? 14 A. Correct. 15 Q. And the intention was to detain them, 16 correct? 17 A. Yes. 18 Q. Okay. And they asked you about it in the 19 CIRT interview, but I don't -- I just want to 20 confirm, because you -- are you aware that there's 21 an -- you're aware that there's an issue with the 22 brass wrap on the door, correct? 23 A. Yes. 24 Q. Okay. But you weren't on the team that 25 was breaching at the door, correct?</p>
<p style="text-align: right;">107</p> <p>1 perhaps be easily destroyed versus not easily 2 destroyed? 3 A. I guess, yeah. 4 Q. So then wouldn't it be important to know 5 what the search warrant is looking for? 6 A. I mean, in this case, you know, like, 7 narcotics, we know we're looking for narcotics. In 8 this case, it was homicide. We know we're looking 9 for a person, right? Or evidence of the homicide, 10 which that could be anything. It could be a weapon, 11 it could be clothing, it could be a knife. I mean, 12 it could be... 13 Q. Nothing, though, that can be destroyed, 14 correct? 15 A. Depends. 16 Q. Let me -- let me -- let me ask this in a 17 better way. 18 If -- if you're doing a narcotic search 19 warrant and you're going after cocaine, you know 20 that that's something that can be destroyed, right? 21 A. Depending on how much it is, yeah, right. 22 Q. Let's say it's a destroyable amount. 23 A. Okay. 24 Q. Okay. And so that's going to be different 25 than if you're looking for a gun or knife or other</p>	<p style="text-align: right;">109</p> <p>1 A. Correct. 2 Q. Yeah. And so at the time that that may or 3 may not have been going on, were you aware of that 4 at all? 5 A. No. 6 Q. Okay. And you were part of the explosive 7 breach unit, correct? 8 A. Uh-huh. 9 Q. Would you -- 10 A. Yes. 11 Q. Sorry. Yes? 12 A. Yes. 13 Q. Okay. And would you have to do recons to 14 serve those breach -- or the explosive breach 15 warrants? 16 A. Yeah, they would typically -- we would 17 typically take somebody that's -- their specialty 18 and bring them along, yes. 19 Q. Okay. 20 A. If that was what they decided to do or 21 use. 22 Q. Okay. And knowing kind of like the 23 totality of all the circumstances here, do you think 24 that this warrant could have been served any 25 differently?</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>1 A. I mean, we could have -- based off the 2 totality, we could have used an explosive breach on 3 the door or the window or both. But as far as 4 serving it, I believe we were -- everything else was 5 in line with our normal procedures and how we've 6 done it in the past.</p> <p>7 Q. And that's in line as it was in 2022, 8 correct?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. And you were involved in a prior 11 incident with an explosive breach, correct?</p> <p>12 A. Yes.</p> <p>13 Q. And can you kind of walk me through what 14 happened in that?</p> <p>15 A. Which one?</p> <p>16 Q. All of them. If there's more than one. I 17 thought there was only one.</p> <p>18 A. Well, I mean, when you say involved in an 19 incident, are you talking about deploying one --</p> <p>20 Q. Yes.</p> <p>21 A. -- on a barricade or --</p> <p>22 Q. No, I'm talking -- my understanding was 23 that there was one where a lady was standing behind 24 the door, correct?</p> <p>25 A. Yes.</p>	<p>110</p> <p>1 higher level of approval than the SWAT lieutenant at 2 the time.</p> <p>3 Q. Okay. And I -- again, I understand that 4 you weren't part of the breach team at the door, but 5 you understand -- but you understand that there was 6 some question about calling a tactical related to 7 the brass wrap on the door and difficulty getting 8 through the door, correct?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. What's your position on that? Do 11 you think a tactical -- knowing what you know now, 12 do you think a tactical should have been called?</p> <p>13 MR. ANDERSON: Objection, form. 14 Go ahead.</p> <p>15 THE WITNESS: As we're trying to get in 16 the door or... 17 BY MS. MURPHY:</p> <p>18 Q. Well, at any time.</p> <p>19 A. Before we see it? Because if we see it, I 20 would -- no, no. Because -- just because there's a 21 brass wrap on the door doesn't mean that they're -- 22 we're going to make a tactical call at that point. 23 Because it could still be defeated, right? It's not 24 a -- it's not one of those things that's going to 25 greatly affect anything at the end of the day. Like</p>
<p>1 Q. Okay. Can you kind of walk me through 2 that?</p> <p>3 A. So, I wasn't one of the -- even though I 4 am one of the breachers on the team, or my team, the 5 red team, I wasn't one of the breachers assigned to 6 that specific role that day. I was just one of the 7 entry officers.</p> <p>8 So, I know in that situation, we had 9 elected to use an explosive breach on the door. And 10 when they went to deploy explosive breach, the 11 female was looking through the peephole of the door 12 as it went off. So...</p> <p>13 Q. Did that result in a lawsuit?</p> <p>14 A. It did.</p> <p>15 Q. And there was a -- was there -- there was 16 a change in policy after that incident, too, 17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And was part of that change in 20 policy meant that you couldn't -- as it was served 21 on October 10, 2022, you couldn't have used an 22 explosive breach entry on this type of warrant, 23 correct?</p> <p>24 A. It -- you could have, but I believe it 25 would require different approval at that point, a</p>	<p>111</p> <p>1 if that's something I said -- like I said before, if 2 we -- something that was missed or, you know, 3 something unexpected that we come across, we'll kind 4 of just work through it at that point. So it's not 5 something we would call tactical for.</p> <p>6 Q. And --</p> <p>7 A. In my opinion.</p> <p>8 Q. And I'm asking for your opinion.</p> <p>9 A. Yeah.</p> <p>10 Q. And so once, though, that there's these 11 multiple hits on the door and the door is not giving 12 way, in your opinion, do you think a tactical ought 13 to have been called then?</p> <p>14 A. So that also would involve a conversation 15 with the breach team, kind of what they would have 16 decided. I know typically, when I was involved in 17 that, or part of the ram or something, we would say, 18 hey, we're going to hit it four times. On the 19 fourth time, if I don't get it, I'm going to move 20 out of the way.</p> <p>21 And then typically -- the plan would 22 typically be to step up with a shotgun to shoot the 23 lock, get the door open, and then at that time enact 24 a tactical plan.</p> <p>25 But just because we call tactical doesn't</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>1 mean we're going to stop -- typically, not trying to 2 open the door. We want to get the door open first. 3 Because that's the entry point for the search 4 warrant.</p> <p>5 Q. And so I've kind of seen tactical used -- 6 the term tactical used in kind of some varying ways 7 throughout all these interviews.</p> <p>8 A. Right.</p> <p>9 Q. So if you can explain to me what a 10 tactical is so I can better understand that.</p> <p>11 A. Right. It's not a hard or fast rule, it's 12 a judgment call. So, typically it's designed for 13 when we, you know, lose that speed or surprise or 14 you see a subject run off, right? The door gets 15 breached open and you see somebody run down the 16 hallway into another bedroom or something. Or we 17 run out of sufficient manpower. So, like, a larger 18 structure where, you know, there's still rooms that 19 need to be cleared but everybody else is already -- 20 we just ran out of officers to put in those rooms. 21 And then you would -- then you would call it. Such 22 as calling out for more people.</p> <p>23 Q. Okay. And, so, prior to your deposition 24 here today, my understanding of a tactical was that 25 if a tactical is called, everyone kind of pulls</p>	<p>114</p> <p>1 you about your experience being on recon, is that 2 you said sometimes the recon will be covert or 3 sometimes it will be more overt.</p> <p>4 A. Uh-huh.</p> <p>5 Q. And I wanted to ask you, why would you 6 want overt recon? Like, what's the point of making 7 your presence known?</p> <p>8 A. Overt?</p> <p>9 Q. Yeah, you -- I'll -- and I'm not trying to 10 trick you, I'm really interested. And so I'll read 11 you the sentence that you wrote. There's two 12 sentences. Um, and then we'll coordinate with them, 13 how they want to do the recon. If it's, you know, 14 kind of a little more covert or overt type thing, 15 you know, if they want us to use their vehicles or 16 want us to use our vehicles.</p> <p>17 A. Oh. So in that -- in that case, I meant, 18 like, the investigative unit, if they wanted us to 19 use their vehicles, they're typically covert 20 vehicles. I mean, you don't really -- you would 21 normally look at it and be, like, this is not a 22 police car, right? So SWAT, I have a Ford F350 23 truck, four-door truck, that has visible -- not 24 red -- not red and blue lights, but little light 25 bars on it all over it. Most people know, and</p>
<p>1 back, and then this would have then converted to a 2 Surround and Callout. So as you're explaining to 3 me, that's actually not accurate; is that correct?</p> <p>4 A. So, in this case, if we called tactical 5 outside -- the plans were -- the breach plans were 6 still supposed to be enacted. But once those 7 happened, then we would -- we would stop. We 8 wouldn't push the entry. Tactical call is -- it's 9 not a pull back type thing, it's more a, hey, let's 10 stop, assess what we have. But at that time when 11 you stop, you know, you just want to be out in the 12 open, you want to move to a position of advantage, 13 right? So you can see something until you determine 14 why that call was made and who made it and for what, 15 you know. So...</p> <p>16 Q. So I -- I am really trying to understand. 17 So my understanding of calling the tactical was 18 that, yeah, that they would stop trying to do the 19 breach, too. But if I understand how you're 20 explaining it to me right now, they would have still 21 breached through the door, but then pulled back to a 22 tactical advantage area.</p> <p>23 A. Right, yes, yes.</p> <p>24 Q. All right. And then one of the things you 25 talked about in your CIRT interview when they asked</p>	<p>115</p> <p>1 especially in some of the certain areas of the city, 2 they know that that truck is associated with the 3 SWAT team. So that's what I meant in that case.</p> <p>4 And then as far as the covert part goes, 5 the detectives will usually tell us, like, hey, 6 we'll take our car, okay? We don't want to -- we 7 don't want to alert them to our presence. Whereas 8 an overt one may be, okay, we're just going to drive 9 through the neighborhood, right? It's a house or a 10 business or something like that. So that's what I 11 meant when I made that statement.</p> <p>12 Q. Okay. And then one of the other things 13 you said is that -- and this is what your sentence 14 said. When they asked you about getting assigned 15 the recon.</p> <p>16 A. Okay.</p> <p>17 Q. You said, um, and then from there, two 18 guys will get assigned the recon. Actually, it's 19 three now. Why did it go from two to three?</p> <p>20 A. So, I think at that point in time, they 21 decided to use three -- I know we had some newer 22 officers come up. And then -- I just -- I believe 23 it was just an operational change based off of how 24 the recon's conducted. Because of the -- the 25 Assistant Team Leader is -- they're the ones</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>1 formulating the plan. And them and the team leader 2 are approving the plan more or less, or finalizing 3 the plan. So they talked about including the two 4 officers with the Assistant Team Leader. Because 5 they're -- they're going to formulate the plan, so 6 why don't they go, too.</p> <p>7 Q. And so you use the term Assistant Team 8 Leader, and I see ATL all over this stuff. Even 9 though they're called assistant, that's actually the 10 guy running the show, correct?</p> <p>11 A. More or less, yes.</p> <p>12 Q. Okay. Is the team leader, like -- that's 13 kind of like a sergeant, like, they oversee --</p> <p>14 A. Correct, yes.</p> <p>15 Q. Okay. So you're, like, a team leader now.</p> <p>16 A. Yes, yeah.</p> <p>17 Q. All right. And so one of the things that 18 you said in your CIRT interview was, the purpose of 19 that recon is for SWAT to be able in the most safe 20 way, serve that search warrant. And my question 21 about that statement is, do you believe that the 22 recon in this case that was collected enabled you, 23 as a member of the SWAT team, to serve that search 24 warrant in the most safe way?</p> <p>25 A. Yes.</p>	<p>118</p> <p>1 Q. Okay. And to your knowledge, did your 2 three rounds hit him?</p> <p>3 A. From where I was standing at, I believe 4 so, yes.</p> <p>5 Q. Okay. And you talked in your CIRT 6 interview about your experience with people 7 encountering the stun stick. And I'll read you your 8 statement on that. And you said, I've just seen it 9 so many times where people that encounter the stun 10 stick just drop to the ground immediately. So, same 11 with the distracts outside. I'm going to ask you in 12 your opinion, based on your experience as a SWAT 13 officer, why do they drop to the ground?</p> <p>14 A. It's a very loud explosion. I mean, it's 15 light, flash, sound. Most people when they hear 16 that stuff, they drop to the ground because they 17 don't know if something is exploding over them or -- 18 you know, they don't -- they really don't know 19 what's happening.</p> <p>20 Q. Right. They don't know what's happening, 21 correct?</p> <p>22 A. It's creating a distraction.</p> <p>23 Q. Right. And so they don't know if they're 24 being shot at, either, correct?</p> <p>25 A. It doesn't sound like a gunshot, so I</p>
<p>1 Q. And so you said -- you talked about the 2 stun stick, too. You talked about the shotgun 3 primer. Does it sound like a shotgun going off?</p> <p>4 A. No, it's just -- just the primer.</p> <p>5 Q. What's the difference between the shotgun 6 primer and the sound of a shotgun?</p> <p>7 A. So, the shotgun primer is just igniting a 8 little bit of powder. And the primer -- an actual 9 shotgun round is igniting the primer and all the 10 powder in there, depending on what type of round it 11 is. So it's significantly louder.</p> <p>12 Q. Okay. And are you aware of that based on 13 your years of experience shooting as a police 14 officer?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And it was -- was it -- based on 17 your testimony, my understanding is, is that it 18 was -- you stopped shooting because you perceived 19 the witness as being -- or sorry, Mr. Williams as 20 being deceased, correct?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. But to confirm, you shot three 23 times before you made the assessment that he was 24 likely deceased, correct?</p> <p>25 A. After I -- yes. Yeah.</p>	<p>119</p> <p>1 would assume they don't -- would not --</p> <p>2 Q. Well, I'm asking --</p> <p>3 A. -- think they would be shot at.</p> <p>4 Q. Right. But you're saying that your 5 experience is that they drop to the ground 6 because -- and I'm -- they perceive some type of 7 danger, correct?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. And then you also said in your CIRT 10 interview -- I'll read the sentence to you and then 11 I want to ask you about it. And then that -- that 12 also creates surprise on the suspects, uh, and as 13 well, you know, when the front door gets blown open 14 or gets knocked down, um, they're usually focused on 15 that and what -- trying to process what's happening. 16 And so my question to you is, is it your experience 17 as a SWAT officer regularly serving warrants that 18 people have trouble processing what's happening?</p> <p>19 A. I wouldn't say they have trouble 20 processing what's happening. I would say that 21 they -- they may not know what's happening, it's not 22 that they're not processing it. It's just their 23 reaction, whatever it is, is to that stimulus. You 24 know, whether they're going to kind of hold fight or 25 flight type thing.</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>122</p> <p>1 Q. Right. So they don't know what's 2 happening. 3 A. I -- I guess you could say that. I mean, 4 they know that -- they know that there's something 5 going on. 6 Q. Right. 7 A. They're just not 100 probably percent what 8 it is. I mean -- and it's hard to tell. If they 9 heard, hey, the police, right, or police search 10 warrant and then they hear an explosion, they are 11 probably going to drop -- they'll most likely drop 12 to the ground. At least that's my experience in all 13 the search warrants that I've served. 14 Q. Okay. But the purpose of doing these 15 distracts is to stun them and surprise them and 16 disorient them, correct? 17 A. Yes, uh-huh. 18 Q. Okay. And I asked you before and I'll ask 19 you again, don't you think that that contradicts the 20 whole concept of knock and announce? 21 A. No. 22 Q. Okay. 23 A. No. 24 Q. And I know I -- I kind of asked you in a 25 roundabout way earlier, and I'm going to -- but I'm</p>	<p>124</p> <p>1 the -- the timing, right, of the search warrant. So 2 those type of factors, yeah. 3 Q. Okay. And -- sorry. When you say timing 4 of the search warrant, do you mean you would have 5 served it at a different time or what do you mean -- 6 or how long -- what do you mean by timing? Sorry, I 7 just want to make sure I understand what you mean. 8 A. The whole -- when I say that, I'm talking 9 about the debate of the no knock, the knock and 10 announce, the reasonableness time, that. Because 11 that is a common thing that typically -- that 12 typically comes up, right? We talk about it all the 13 time, we try to train for it and mitigate it, and, 14 you know, determine, hey, what's in a -- what's a 15 reasonable amount of time? How long do we think 16 that it's going to take? And, like, in this 17 instance, the suspect to arm themselves and to shoot 18 at us. Or just to give up. Or move to another 19 position or better position. All those different 20 factors, looking at all those. 21 Q. Okay. And so as we sit here today, then, 22 are -- and I want to make sure that I understand 23 your testimony correctly. As we're sitting here 24 today and you've just gone over this, have you, 25 then, gone back and forth about whether or not the</p>
<p>123</p> <p>1 going to ask you in a more straightforward way this 2 time. Looking back on this incident, is there 3 anything that you would have done differently? 4 Looking at the whole team, is there anything that 5 you would have said, hey, either I personally would 6 have done differently or I think this should have 7 been done differently on the team? 8 MR. ANDERSON: Objection, form. 9 THE WITNESS: Yeah, I mean, there's so 10 many factors to look at. I mean, you're -- just the 11 nature of our job is we're just critical of -- of 12 everything. Critical of yourself, of your 13 teammates, the planning process. I mean, that's how 14 you learn and get better, is to take that critical 15 look and analyzing everything. So, yeah, there 16 would be -- definitely be things that -- 17 BY MS. MURPHY: 18 Q. Can you walk -- can you walk me through 19 what things you think could be improved or on what 20 things you would have done differently? 21 A. In this specific instance, I mean, 22 obviously we brought -- we talked about it was the 23 brass wrap, right? Whether tactical -- the tactical 24 call, the deciding factors, that was a lot of stuff 25 that was also talked about after. You know, there's</p>	<p>125</p> <p>1 announcement was an appropriate amount of time? 2 A. I believe that it was appropriate, yes. 3 Q. Okay. And -- but you said that there's 4 been debate about it; is that accurate? 5 A. Yes. 6 Q. Between whom? 7 A. I mean, it's -- you hear it on the news, 8 you talk -- we talk about it amongst our team 9 members. You know, within our own agency. When 10 they talk about policy changes. I mean, we -- it's 11 a fairly -- something that's brought up -- 12 Q. Okay. 13 A. -- and talked about. 14 Q. And my understanding -- we've talked about 15 it a lot in this deposition, so thank you for 16 bearing with me. But my understanding, you know, 17 and we talked about it, like I said, quite a few 18 times, is that on January 10, 2022, the position and 19 how you guys operated, it was that, hey, it's not 20 really in a reasonable amount of time you have to 21 get off two -- it's not the time, the actual 22 timeline, but kind of the standard operating 23 procedure was, you need to get off a certain number 24 of announcements, correct? 25 A. So, the number of announcements were,</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p style="text-align: right;">126</p> <p>1 enacting the another plans, so, yes, in a sense. 2 But if you're asking what, like, the total overall 3 announcements would be, it's more than two. Because 4 every word -- everybody's typically yelling police, 5 search warrant, when the first one starts. 6 Q. But here it wasn't more than two, correct? 7 A. More than two for? 8 Q. There was two announcements and then the 9 door was breached, correct? 10 A. Right. But also, during that time, police 11 are -- officers are still yelling, police, search 12 warrant. 13 Q. Do you think it's a reasonable expectation 14 that somebody who's inside a small unit full of 15 smoke and having nine bangers and a stun stick go 16 off would continue to be able to assess and 17 understand announcements that are being made?</p> <p>18 MR. ANDERSON: Objection, form.</p> <p>19 Go ahead.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MS. MURPHY:</p> <p>22 Q. Okay. So even though you testified 23 earlier than the intent is to distract somebody, to 24 surprise them, to overwhelm them, you think that 25 they would still have the mental capacity to be able</p>	<p style="text-align: right;">128</p> <p>1 BY MS. MURPHY: 2 Q. And if the -- just to let the record 3 reflect, we took a break and we watched what is your 4 body-worn camera footage. And the -- we watched the 5 entirety of the video, which is approximately -- 6 well, it's not approximately, it's 20 minutes and 51 7 seconds long. 8 A. Yes. 9 Q. And you confirm that this is your 10 body-worn camera footage, and this is what you 11 remember from the date of the incident, correct? 12 A. Correct. 13 Q. Okay. And so I wanted to ask you a couple 14 questions about some -- some of the dialogue and 15 some of the things that we saw on the body-worn -- 16 the BWC. 17 A. Yes. 18 Q. Okay. 19 THE VIDEOGRAPHER: I'm sorry, can you 20 slide your mike up just a little bit, just because 21 your arms are hitting it. Thank you. 22 THE WITNESS: Yeah. 23 THE VIDEOGRAPHER: Thanks. 24 BY MS. MURPHY: 25 Q. The majority of the BWC is really you and</p>
<p style="text-align: right;">127</p> <p>1 to understand announcements that are being made? 2 A. Off of my experience, yes. 3 Q. Okay. But you said that people would drop 4 to the ground. Why do you think they drop to the 5 ground? 6 A. I mean, when I say drop to the ground, I 7 mean, I guess I could be more specific in that case. 8 It's not like they're just falling to the ground and 9 laying out with their hands behind their back. I 10 mean, they're also ducking and diving, right? 11 Q. They're taking cover, correct? 12 A. Right. They're moving, you know. They're 13 maybe laying down on a couch or moving from a seated 14 position to a laying down position, right? They're 15 typically ducking. 16 Q. Yeah. They're taking cover, correct? 17 A. More or less. 18 Q. Okay. All right. Let's -- let's go off 19 the record for just a second. I'm going to set up 20 the video. 21 THE VIDEOGRAPHER: We are going off record 22 at 12:38 p.m. 23 (Off record.) 24 THE VIDEOGRAPHER: We are back on record 25 at 1:08 p.m.</p>	<p style="text-align: right;">129</p> <p>1 Bertuccini driving to the... 2 A. Incident. 3 Q. Yeah, the incident. And so there's a 4 little bit of dialogue between you and Bertuccini 5 that I wanted to ask you about. 6 A. Okay. 7 Q. Just give me one second and I'll pull it 8 up. 9 I'm going to start at about six minutes 10 and 20 -- and 15 seconds. Sorry. 11 A. Okay. 12 (Video played.) 13 BY MS. MURPHY: 14 Q. Yeah. And so I wanted to -- when you -- 15 when you're talking about Back, are you talking 16 about -- are you talking about Backman, Sergeant 17 Backman? 18 A. So we're talking about actually all the 19 sergeants. 20 Q. Okay. 21 A. Yeah. But I know in that case, Sergeant 22 Backman, he was newer to the unit, so he was trying 23 to gain experience. 24 Q. And if I heard correctly, I think it was 25 you that said, why are you running this? You were</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>1 talking about Sergeant Backman, correct?</p> <p>2 A. Yes.</p> <p>3 Q. And why were you questioning Sergeant</p> <p>4 Backman's ability to run this?</p> <p>5 A. I wasn't questioning his ability, I was</p> <p>6 just questioning why he was doing it. I knew he was</p> <p>7 in training. And I'm trying to remember if at the</p> <p>8 time -- because this was a blue -- well, silver team</p> <p>9 search warrant. At the time blue team, old blue</p> <p>10 team. I believe he was assigned to our team.</p> <p>11 So typically, the team who's running the</p> <p>12 search warrant, or the day that they're working,</p> <p>13 their sergeant will run the search warrant. But I</p> <p>14 believe, if I remember correctly in this case,</p> <p>15 Backman was on our team, but he was running the</p> <p>16 search warrant, which is not very common.</p> <p>17 So -- and the fact that there were three</p> <p>18 sergeants there as well, which typically there never</p> <p>19 is. There's usually only two. And when I said Back</p> <p>20 does that all the time, he'll get the notification</p> <p>21 because he's a sergeant, right, he's in the</p> <p>22 leadership texts that they have going, he'll get the</p> <p>23 notification and he'll just show up. Which he can,</p> <p>24 because he's a supervisor. But it's, like, you</p> <p>25 know, if one of the officers did that, they'd be,</p>	<p>130</p> <p>1 service like this?</p> <p>2 A. This one is a pretty standard one. I</p> <p>3 would say yes, up until we encountered the shooting.</p> <p>4 Q. Right. You had to go through a full SWAT</p> <p>5 school. You didn't get a condensed version, did</p> <p>6 you?</p> <p>7 A. No.</p> <p>8 Q. Okay.</p> <p>9 MR. ANDERSON: That's a double negative.</p> <p>10 No, you didn't have to go through? Yes --</p> <p>11 BY MR. MURPHY:</p> <p>12 Q. Correct. Sorry, let me ask it in two</p> <p>13 ways.</p> <p>14 You went through full SWAT school,</p> <p>15 correct?</p> <p>16 A. I went through it a couple times,</p> <p>17 actually, yeah.</p> <p>18 Q. You didn't get a condensed version,</p> <p>19 correct?</p> <p>20 A. No, I did not.</p> <p>21 Q. All right. And then -- if a sergeant</p> <p>22 shows -- are the sergeants also paid kind of by</p> <p>23 hour, so if they show up for extra SWAT warrants, do</p> <p>24 they get paid more?</p> <p>25 A. Yes.</p>
<p>1 like, what are you doing here, you know? So that's</p> <p>2 why we were talking about it in that instance.</p> <p>3 Q. And did it -- and I took away from that,</p> <p>4 too, and you just mentioned it earlier, that he also</p> <p>5 was in training, right? So why is he running this</p> <p>6 operation? You were aware that he hadn't finished</p> <p>7 SWAT school, right, or that he was still in</p> <p>8 training?</p> <p>9 A. Yeah. So I knew they hadn't run him</p> <p>10 through a -- because -- yeah. Because the time he</p> <p>11 came up, he didn't go through an official SWAT</p> <p>12 school. They were doing more of a -- like a</p> <p>13 condensed training type thing. I can't remember how</p> <p>14 long he had been in SWAT prior to that. If he was</p> <p>15 still in training.</p> <p>16 So, I mean, a lot of it's on-the-job</p> <p>17 training. But I just -- I questioned that, like,</p> <p>18 okay -- or I was questioning why they were there.</p> <p>19 And then I was, like, oh, it's because Backman's in</p> <p>20 training, like, that's why -- that's why he's doing</p> <p>21 it, you know.</p> <p>22 Q. Okay, all right.</p> <p>23 A. Getting the experience.</p> <p>24 Q. Do you think it's appropriate for somebody</p> <p>25 who's in training to run a SWAT search warrant</p>	<p>131</p> <p>1 Q. Okay.</p> <p>2 A. The standard call-out pay, four-hour</p> <p>3 minimum.</p> <p>4 Q. Okay. And then I'm going to go right</p> <p>5 before the incident. Hold on. I'm just going to --</p> <p>6 (Video played.)</p> <p>7 BY MS. MURPHY:</p> <p>8 Q. I didn't go back quite far enough, sorry.</p> <p>9 (Video played.)</p> <p>10 BY MS. MURPHY:</p> <p>11 Q. That's okay. I have to make sure I'm</p> <p>12 preserving the record.</p> <p>13 And so as those announcements were played</p> <p>14 from your vantage point, could you hear both the</p> <p>15 announcements clearly or were they muffled?</p> <p>16 A. I could hear them clearly.</p> <p>17 Q. You could hear both announcements clearly.</p> <p>18 A. Uh-huh.</p> <p>19 Q. Let's play that again.</p> <p>20 (Video played.)</p> <p>21 BY MS. MURPHY:</p> <p>22 Q. Could you hear -- is it your testimony</p> <p>23 that we've just reviewed this, and you could</p> <p>24 distinctly hear the words clearly in both</p> <p>25 announcements, or could you hear basically the first</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>1 announcement clearly and the second announcement 2 you -- it was muffled? 3 A. I could hear the first one saying, police, 4 search warrant, and I could hear the second one. I 5 could hear the, police, search warrant. Which would 6 be the cue to insert the stun stick and start the 7 plan. 8 Q. Okay. So the -- and I want to make -- so 9 that was standard operating procedure, that went the 10 way it was supposed to? 11 A. Yes. 12 Q. You were the first -- sorry. 13 A. Yes. 14 Q. Yes. So it was, police officer, search 15 warrant, and then when you heard the second police 16 officer, which you're saying you heard clearly, that 17 was time to go, for lack of a better term, correct? 18 A. Yes. 19 Q. Okay. And then if you want to hit -- 20 sorry. If you can hit play, we'll just go a few 21 seconds up from that. 22 A. Okay. 23 (Video played.) 24 BY MS. MURPHY: 25 Q. Okay. As we sit here today and you're</p>	<p>134</p> <p>1 had already been started for the distract. It was 2 just waiting for it to go. Because I said pull, 3 pull, pull. By the time I said that it was going 4 off. So I was maybe jumping the gun a little bit on 5 that, too. 6 Q. Okay. 7 A. That's -- 8 Q. That's actually the only stuff I wanted -- 9 and then -- I don't think we -- you remember as we 10 watched this, you -- well, you already testified 11 about it, that as the video goes on, you talk about 12 the confusion -- you even experienced confusion 13 between the nine banger and the shots, correct? 14 A. Right. So initially, the other guys kind 15 of behind us, further -- a little bit further down 16 by the patio, where they had tossed it. So they 17 tossed it pretty -- kind of close to us, which is 18 okay. But it kind of caught me off guard. Because 19 we wear the electronic ear -- ear protection. So it 20 just -- it's designed to muffle those loud crack 21 noises, like gunshots. So even the distracts. So 22 when you hear that, it's really hard -- if I heard 23 it with just my regular -- you know, without any -- 24 without that on I could tell. 25 But with those on, it's hard to kind of</p>
<p>1 listening to this, are -- is it your position that 2 the noise between the nine banger and the gunfire 3 are easily distinguishable, or do they sound 4 similar? 5 A. So, at the time -- I mean, listening to 6 it, it's -- it's more clear. But at the time it was 7 hard -- it's a little bit harder to tell, actually. 8 Q. And just to understand -- and it's a 9 little difficult to see -- I don't think you were 10 trying to modify the record in any way, but it is a 11 little bit difficult to tell exactly what your 12 vantage point is. Because what we see is right -- 13 the top of the shield kind of cuts off half of that. 14 A. Right. 15 Q. But is it -- you tell me if I'm right or 16 wrong. My understanding is that he had broken the 17 window, and then you were yelling pull, pull, pull, 18 right? 19 A. Yes. 20 Q. Okay. So from Mr. Williams' vantage point 21 inside, a window is broken, and then he hears pull, 22 pull, pull, and then it starts -- the distraction 23 devices start, correct? 24 A. Correct. Or the -- probably in this case, 25 listening to it or watching it, is the -- the train</p>	<p>135</p> <p>1 tell at first what -- where it's coming from. 2 Especially when they -- I'm outside and they 3 deployed it outside with me right there. So had I 4 been inside when they deployed it, I -- would have 5 been a lot easier to tell. 6 Q. But that's also from your vantage point of 7 being an officer for 13 years and having been at gun 8 ranges for 13-plus years as well, correct? You're 9 not a civilian. 10 A. Correct, yeah. 11 Q. And I want to -- I want to -- we're done 12 with the video. Sorry, I'm not -- yeah, you can 13 close it. Thank you, yeah. 14 I want to read you one of the standard -- 15 thank you, thank you, very much, James. I want to 16 read you one of the standards for knock and 17 announce. And this comes from a United States 18 Supreme Court case. If, after notice of his 19 authority and purpose, an officer is refused 20 admittance, then the Supreme Court goes on to say 21 it's okay to breach the door. 22 Having watched this video, can you tell me 23 at any point in time where Mr. Williams refused you 24 or anyone on that team admittance into the 25 apartment? Before the breach.</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>1 A. What was the --</p> <p>2 Q. No problem.</p> <p>3 A. -- the court case again? What did the</p> <p>4 Supreme Court say?</p> <p>5 Q. That if, after notice of his authority and</p> <p>6 purpose, an officer is refused admittance.</p> <p>7 A. Okay.</p> <p>8 Q. What did Mr. Williams do to refuse you or</p> <p>9 anyone on your team admittance prior to the breach?</p> <p>10 A. Having the door closed and locked? Is</p> <p>11 that what we're talking about? Or giving him the</p> <p>12 time to answer the door?</p> <p>13 Q. Well, the Supreme Court says that he gets</p> <p>14 time to answer the door, or time to indicate that</p> <p>15 he's going to refuse you admittance. So was there</p> <p>16 any indication that Mr. Williams was going to --</p> <p>17 before entry through the door, was there any</p> <p>18 indication that Mr. Williams would have refused you</p> <p>19 admittance?</p> <p>20 A. Not up until that point, no.</p> <p>21 Q. Okay. And there's also a Supreme Court</p> <p>22 case that says that the Supreme Court has held that</p> <p>23 a 15- to 20-second wait after police officers</p> <p>24 announce their presence was reasonable under the</p> <p>25 Fourth Amendment and Section 3109.</p>	<p>138</p> <p>1 conclusions that was made, and I want to ask your</p> <p>2 opinion on it.</p> <p>3 A. Uh-huh.</p> <p>4 Q. By conducting a CET to surprise and</p> <p>5 overwhelm the occupants of the structure, it</p> <p>6 inherently contradicts the knock and announce rule</p> <p>7 which require officers to wait a reasonable amount</p> <p>8 of time set forth by United States Supreme Court</p> <p>9 case law and the Nevada Revised Statutes. Do you</p> <p>10 agree or disagree with that conclusion?</p> <p>11 A. The reasonable -- what is the reasonable</p> <p>12 amount of time?</p> <p>13 Q. No, sorry. Let me read it one more time.</p> <p>14 A. Yeah, sorry. I missed the first part.</p> <p>15 Q. No, no, no. By conducting a CET --</p> <p>16 A. Okay.</p> <p>17 Q. -- to surprise and overwhelm the occupants</p> <p>18 of the structure, it inherently contradicts the</p> <p>19 knock and announce rule, which requires officers to</p> <p>20 wait a reasonable amount of time set forth by the</p> <p>21 United States Supreme Court case law and the Nevada</p> <p>22 Revised Statutes. Is it -- do you agree or disagree</p> <p>23 that by conducting a CET to surprise and overwhelm,</p> <p>24 that contradicts the knock and announce rule?</p> <p>25 A. Yeah, I would say I don't agree with that.</p>
<p>139</p> <p>1 As we sit here today, what we've discussed</p> <p>2 before was that your understanding of knock and</p> <p>3 announce was that it had to be -- or it should have</p> <p>4 been two or three announcements before the breach</p> <p>5 was made, correct?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And that is irrespective of the</p> <p>8 amount of time -- the amount of seconds that passes,</p> <p>9 correct?</p> <p>10 A. I would say it's about that time, but,</p> <p>11 yes.</p> <p>12 Q. Well, in this case, there was one and a</p> <p>13 half or two announcements, and six seconds went by.</p> <p>14 A. Okay, yeah.</p> <p>15 Q. So that's clearly not 15 to 20 seconds,</p> <p>16 correct?</p> <p>17 A. Well, I would say that's from when the</p> <p>18 window was breached. But that wasn't our entry</p> <p>19 point; the front door was.</p> <p>20 Q. I will -- I will represent to you that</p> <p>21 even the -- own internal investigation found there</p> <p>22 was six seconds between the beginning of the</p> <p>23 announcement and the breach of the door.</p> <p>24 A. Okay. All right.</p> <p>25 Q. Okay? I want to read you one of the</p>	<p>141</p> <p>1 Because it's a knock and announce. You're just</p> <p>2 announcing your presence, more or less. Whether</p> <p>3 it's six seconds or 20 seconds. The main question</p> <p>4 is, what's reasonable to get to the door and open</p> <p>5 the door, and how fast can you do that?</p> <p>6 Q. Okay. And so is the purpose, then, of</p> <p>7 giving the announcements to just rattle them off and</p> <p>8 get through the door as quickly as possible?</p> <p>9 A. I wouldn't say rattle them off. I mean,</p> <p>10 you know, the goal is, the point is, to make them</p> <p>11 loud and clear that it's the police and we're there</p> <p>12 to serve a search warrant.</p> <p>13 Q. Okay.</p> <p>14 A. Yeah.</p> <p>15 Q. Do you think somebody that's sleeping</p> <p>16 inside an apartment that they don't normally live at</p> <p>17 can automatically assess within seconds what kind of</p> <p>18 announcement is being made?</p> <p>19 A. Off of my previous experience, yes.</p> <p>20 Q. Okay. And that's part of your experience</p> <p>21 of serving these and your understanding of what the</p> <p>22 policies and procedures for LVMPD are?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. And that you under- -- do you</p> <p>25 understand that both the Nevada Supreme Court, the</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>1 Nevada Revised Statute, and the United States 2 Supreme Court disagrees that six seconds is a 3 sufficient amount of time?</p> <p>4 A. Yes, okay.</p> <p>5 Q. Okay. You'll take my word for it, is 6 that --</p> <p>7 A. Yeah.</p> <p>8 Q. Okay, all right. I think -- oh, yeah, I 9 just wanted to ask you some follow-up questions 10 about your interrogatories.</p> <p>11 I just wanted to confirm, one of the 12 interrogatory questions asked you to describe any 13 retraining, discipline, demotions, or other adverse 14 employment action taken against you as a result of 15 this incident. And your response was none. Is that 16 correct.</p> <p>17 A. Correct.</p> <p>18 Q. So that includes not just discipline, but 19 there was no retraining, either; is that accurate?</p> <p>20 A. As in?</p> <p>21 Q. Was there any --</p> <p>22 A. Because of the incident?</p> <p>23 Q. Correct, yes.</p> <p>24 A. Retraining? Personally for me? No. But, 25 I mean, we learned from the incident.</p>	<p>142</p> <p>1 deployment of distracts. You know, and then several 2 changes from the actual department, right, of 3 policy -- department policy.</p> <p>4 Q. And so -- thank you for that very detailed 5 answer. And I wanted to be a little bit more 6 specific, and so let me ask it a little bit better.</p> <p>7 In terms of you and how you function, have 8 you changed any ways that you function, based on 9 this incident? And I -- and I don't doubt that 10 you've been very critical of yourself. I'm not 11 trying to imply that you weren't. But I'm asking 12 for your opinion, have you personally done -- like, 13 have you modified your practice or anything that 14 you've done as a result of this incident?</p> <p>15 A. As of now, no. I'm no longer on the SWAT 16 team.</p> <p>17 Q. Sorry, so let me clean that question up 18 even more.</p> <p>19 When you were still on the SWAT team, as a 20 result of this incident, was there anything that you 21 changed how you did?</p> <p>22 A. Yeah, yeah, I did, yeah.</p> <p>23 Q. What did you change?</p> <p>24 A. So, this was a good -- good case or, you 25 know, good incident for me. I've been involved</p>
<p>1 Q. Okay. What did you guys -- sorry. What 2 did you learn from the incident?</p> <p>3 A. I mean, again, like I explained earlier, 4 everybody's critiquing themselves, they're 5 critiquing the incident, what could have been done 6 better, you know, was there -- you know, did we 7 recognize points of failure?</p> <p>8 Which, I mean, obviously we don't need the 9 CIRT team to point that out, we can look at our own 10 internal mechanisms and figure it out and look at 11 ourselves and figure it out. And that's as simple 12 as, did I go left when I should have went right, you 13 know?</p> <p>14 So, individually, I know a lot of guys 15 will look at that as a tool. So when you say 16 retrain, in the -- as a form of, this was messed up, 17 or a disciplinary thing or anything like that, no. 18 But we did train in the sense to get better, right?</p> <p>19 Q. And so how have you gotten better since 20 this incident?</p> <p>21 A. Well, I know they made some policy 22 revisions, right, as a whole. I know that certain 23 calls were -- well, not calls, but certain tactics 24 were cleaned up, right, as far as breaching of the 25 door goes. The use of the tactical call. You know,</p>	<p>143</p> <p>1 in -- I -- probably well over 1,000 search warrants 2 at that point. Callouts, shootings, just about 3 everything.</p> <p>4 And I realized something as -- you know, 5 this seemed just like a normal, run of the mill 6 search warrant. We've done this hundreds of times 7 at this hour, these locations, similar locations.</p> <p>8 But this one was different because we 9 ended up taking gunfire and had officers shot. And 10 in turn, had to shoot. And it was the first time 11 I've had to, you know, discharge my firearm in the 12 course of, you know, the line of duty, more or less. 13 So, there's quite a few things to take away from it, 14 yeah.</p> <p>15 Q. And so I'm asking you, what did you take 16 away from it? What did you change while you were 17 still on SWAT?</p> <p>18 A. Just -- I mean, I think that's a pretty 19 broad question. I mean, it's a lot, you know. 20 Like, took kind of -- boils down to even my 21 mentality going in there. Like, hey, let's -- you 22 know, the heightened state, right? Like, okay, we 23 need to treat this as a high level -- we may be 24 involved in a shooting, people may get shot. So, 25 you know, that's probably one of the highest things,</p>

James Rothenburg

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>1 right?</p> <p>2 Not saying that this incident was, you</p> <p>3 know -- it was a nothing until something actually</p> <p>4 happened, right? I mean, it was -- we still treated</p> <p>5 it how we would -- how we would normally. But it</p> <p>6 makes you realize, this was a significant incident</p> <p>7 with significant injuries to people.</p> <p>8 So, moving forward, you just realize,</p> <p>9 like, okay, I'd better take things very serious,</p> <p>10 right? So -- and that boils down to a laundry list</p> <p>11 of stuff. Your weapons, your firearms, how you</p> <p>12 carry things, right? Preplanning in your head what</p> <p>13 you're going to do the next incident this happens.</p> <p>14 I mean, there's -- you could make a list of them.</p> <p>15 Q. And so let me kind of cut to the chase,</p> <p>16 and you tell me if I'm right or wrong in my</p> <p>17 understanding.</p> <p>18 When you talk about that you have changed</p> <p>19 as a result of this incident, you're talking about</p> <p>20 your frame of mind, how you're approaching them, are</p> <p>21 you taking it seriously -- and I know what you're</p> <p>22 trying to say, and I'm not trying to put you in a</p> <p>23 place. But you're saying --</p> <p>24 A. Okay.</p> <p>25 Q. -- that probably every one, you're</p>	<p>146</p> <p>1 you're, like, oh, I'll never go to court and argue</p> <p>2 about what was said on a phone call again. I'll</p> <p>3 always send some kind of confirming e-mail.</p> <p>4 So that's something in kind of our</p> <p>5 day-to-day practice that we learn as we get, you</p> <p>6 know, through incidents and we become more seasoned.</p> <p>7 So that's an example I could give you. Do</p> <p>8 you have anything like, in kind of your day-to-day</p> <p>9 functioning that you modified or changed as a result</p> <p>10 of this incident?</p> <p>11 A. I wouldn't say my day-to-day functioning,</p> <p>12 but --</p> <p>13 Q. Okay.</p> <p>14 A. -- I would say how -- you know, how things</p> <p>15 were done, you know, in that situation. Like, being</p> <p>16 a recon officer, right? Things to look for, stuff</p> <p>17 like that.</p> <p>18 But, a lot of the things that happened in</p> <p>19 this specific incidence have happened before. So,</p> <p>20 you know, brass wraps have been missed, right?</p> <p>21 Announcements have been shorter. Some have been</p> <p>22 longer. So, I would say based off the situation.</p> <p>23 But for me personally, did I change anything</p> <p>24 different? I don't -- I don't think so.</p> <p>25 Q. Okay.</p>
<p>147</p> <p>1 taking -- not, like, oh, it's -- you're not</p> <p>2 approaching every one, like, oh, this is the</p> <p>3 standard warrant any more. Is that fair -- is</p> <p>4 that -- when you were on SWAT.</p> <p>5 A. Right.</p> <p>6 Q. Okay. So -- and I appreciate your</p> <p>7 detailed explanation of that.</p> <p>8 Setting that issue aside, is there</p> <p>9 anything in your day-to-day functioning, aside from</p> <p>10 you have a different mentality about this, is there</p> <p>11 anything in your day-to-day functioning as when you</p> <p>12 were still a SWAT officer that you changed as a</p> <p>13 result of this incident? Do you understand the</p> <p>14 distinction I'm getting at?</p> <p>15 A. Yeah, I mean, you're -- I mean, day-to-day</p> <p>16 function as in --</p> <p>17 Q. So I'll --</p> <p>18 A. -- give me an example?</p> <p>19 Q. I will give you an example of what I --</p> <p>20 from something that happened as a lawyer, right?</p> <p>21 And Craig will probably back me up on this.</p> <p>22 That we always send confirming letters and</p> <p>23 e-mails after a phone call with either a client or</p> <p>24 opposing counsel. You only have that, for lack of a</p> <p>25 better -- blow up in your face one time before</p>	<p>149</p> <p>1 A. Yeah.</p> <p>2 Q. All right. And just to confirm, we've</p> <p>3 gone through all -- thank you for sitting through</p> <p>4 and going through all this. We've gone through it</p> <p>5 in so much detail.</p> <p>6 Just to confirm, although you have come</p> <p>7 through it with a different state of mind, as we sit</p> <p>8 here today, there's not anything that you would do</p> <p>9 differently, correct?</p> <p>10 A. No.</p> <p>11 Q. Okay. I think that's it.</p> <p>12 MR. ANDERSON: I have no questions.</p> <p>13 THE VIDEOGRAPHER: One moment.</p> <p>14 MS. MURPHY: Do we want to do sign and</p> <p>15 review -- or read and review? Sorry.</p> <p>16 MR. ANDERSON: You have the opportunity to</p> <p>17 read this, make sure everything is accurate, make</p> <p>18 sure she doesn't make any mistakes, which she will</p> <p>19 not. Because it's on video, I don't think you need</p> <p>20 to. But if you want the opportunity to read it and</p> <p>21 make sure everything is okay before it's finalized,</p> <p>22 you can do that. Do you have a preference?</p> <p>23 We'll waive.</p> <p>24 MS. MURPHY: Off the record.</p> <p>25 THE VIDEOGRAPHER: This concludes the</p>

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150

1 video-recorded deposition of James Rothenburg taken
 2 on July 17th, 2024. We're going off the video
 3 record, and the time is 1:35 p.m.
 4 MR. ANDERSON: I will order a copy.
 5 (Proceedings concluded at 1:35 p.m.)

152

1 REPORTER'S CERTIFICATE
 2 STATE OF NEVADA)
 3 COUNTY OF CLARK) ss
 4

5 I, Tracy A. Manning, a duly certified court
 reporter licensed in and for the State of Nevada, do
 hereby certify:

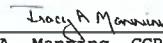
6 That I reported the taking of the deposition of
 7 the witness, James Rothenburg, at the time and place
 8 aforesaid;

9 That prior to being examined, the witness was
 10 by me duly sworn to testify to the truth, the whole
 11 truth, and nothing but the truth;

12 That I thereafter transcribed my shorthand
 13 notes into typewriting and that the typewritten
 14 transcript of said deposition is a complete, true
 15 and accurate record of testimony provided by the
 16 witness at said time to the best of my ability.

17 I further certify (1) that I am not a relative,
 18 employee or independent contractor of counsel of any
 19 of the parties; nor a relative, employee or
 20 independent contractor of the parties involved in
 21 said action; nor a person financially interested in
 22 the action; nor do I have any other relationship
 23 with any of the parties or with counsel of any of
 24 the parties involved in the action that may
 25 reasonably cause my impartiality to be questioned;
 and (2) that transcript review pursuant to
 FRCP 30(e) was waived.

26 IN WITNESS WHEREOF, I have hereunto set my hand
 27 in the County of Clark, State of Nevada, this 28th
 28 day of July 2024.

29 
 30 Tracy A. Manning, CCR #85

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151

1 CERTIFICATE OF DEONENT
 2 PAGE LINE CHANGE
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* * * * *

I, James Rothenburg, deponent herein, do hereby
 certify and declare under penalty of perjury the
 within and foregoing transcription to be my
 deposition in said action; that I have read,
 corrected and do hereby affix my signature to said
 deposition.

23
 24 James Rothenburg
 25 Witness